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DIARY OF THE JOURNEY OF PHILIP JULIUS,
DUKE OF STETTIN-POMERANIA, THROUGH
ENGLAND IN THE YEAR 1602.

EDITED BY DR. GOTTFRIED VON BÜLOW,
Superintendent of the Royal Archives in Stettin, 1892 ;

Assisted by WILFRED POWELL, H.B.M. Consul in Stettin.

Read June 16, 1892.

PREFACE.

PHILIP JULIUS, Duke of Pomerania-Wolgast, born in the year 1584, was the only son of Ernst Ludwig, of Pomerania, and Sophia Hedwig, of Brunswick. For the purpose of finishing his education before taking up the government of his country, he was sent on a grand tour through the principal States of Europe, sixteen gentlemen and servants forming his suite.

The young Duke, on the first of February, 1602, set out for Leipzig University, where he spent some weeks in attending the lectures of the most eminent professors, and was, in conformity with an old custom, honoured by having conferred upon him the title of Rector of the University. Six months later, in July, the travellers passed Strassburg, reaching Paris towards the end of August. Their stay here was not of long duration, it being the plan of his governors to let the Duke see

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England first and study France on his return from that island. Already on September 3 we find the company in Boulogne, waiting for a ship that was to carry them over to England. In Boulogne most of the servants were ordered to remain with the horses, and even some of the gentlemen-in-waiting seem not to have crossed the Channel with their young lord.

The highest in command of the suite was Bernhard Buggenhagen, first and principal governor to the Duke, who had the management as well as the responsibility of everything concerning the journey. In the second place may be mentioned Erasmus Küssow, chamberlain, and Joachim Volrad Tribsees, cup-bearer, as well as Christoffer Trampe, the paymaster. All these were of noble birth and belonged to the best families of Pomerania, whilst Frederic Gerschow—a learned scholar, and up to this time the tutor of the young Duke—may have performed the duties of private secretary, and, when the knowledge of the others proved to be insufficient, acted as interpreter.

Frederic Gerschow is the author of the Diary, kept by him from the first day of the journey down to their return home. The Duke ordered him to put down carefully, day by day, everything they saw or heard in the places they visited, and Gerschow made his notes with the intention of bringing them into better order at his leisure. Unfortunately, however, and before setting to work he gave away part of the manuscript, and another part was spoiled by rain; consequently he was obliged to have recourse to his memory, and dictated what he knew to an amanuensis, which caused much delay. The manuscript was not completed till 1605, when Gerschow was professor of law at the university in Greifswald, where he died in the year 1635. No doubt it was owing to him, that the young Duke was enabled to meet and enter into conversation with the best-known statesmen and scholars of the time.

The original manuscript of Frederic Gerschow's Diary belonged to the library of St. Mary's church in Stargard, Pomerania, but appears to be entirely lost. The only copy existing (or at least known to exist) was found by me some

years ago in the library of Count von der Osten of Plathe in Pomerania, whose grandfather, gentleman-in-waiting to the King of Prussia, founded about the middle of the last century the Plathe library, which still exists, though somewhat neglected. He brought together a great many books and manuscripts, chiefly historical, procuring copies when the originals were not to be obtained. In a short note on the fly-leaf of his copy of the Diary, dated Plathe, 1757, Herr von der Osten gives an account of the original, which, no doubt, formerly had its place in the ducal library. Herr von der Osten's father-in-law had it copied for himself in the year 1733, and described the original as a parchment bound volume with gilt edges, the handwriting being apparently in the style of the sixteenth century. The Plathe manuscript is a copy of this former copy above mentioned, and was carefully revised by Herr von der Osten, whose handwriting is found on many of its pages.

The Diary has never yet been published, but in the year 1751 Herr David Richter, rector of the Latin School in Güstrow, Mecklenburg, gave an extract of it. It will, for this reason, interest the English public to receive on the following pages a translation, as literal as possible, of that part of the Diary which contains the young Duke's sojourn in England from September 10 until October 3, 1602.

Being sent to England for the sake of instruction and with the view of forming his character, it is evident that no political purpose whatever was connected with the journey; but it may be interesting to have a description of London and other eminent places, as a foreign traveller of high birth saw them about three hundred years ago. Here, however, the translation meets with a difficulty which was not always to be overcome. The Diary gives the names of men and places phonetically, as the German ear caught the sound—e.g. *Zipsent* for Cheapside, *Sommersitz* for Somerset. Where it was possible to find out the place the modern name has been added, but very often this was impossible, even with the help of a map.

DES DURCHLAUCHTIGSTEN HERRN PHILIPPI GULII,
HERZOGEN ZU STETTIN, POMMERN, ETC., REISE DURCH
DEUTSCHLAND, ENGELLAND, UND ITALIEN, 1602.

September 10.—Den 10 [September 1602] sind wir zum dritten Mal [von Boulogne] im Namen Gottes um halb eins um Mittag zu Schiffe gangen, und mit ziemlichen guten Winde um halb sechs gegen Abend zu Dover angelanget; da wir denn fast im Port gestrandet hätten, weil der Steuermann seines Ruders nicht mehr mächtig; allhier haben wir geheuset. Von Boulogne bis Dover sind 10 französische lieues, eben wie von Calais bis Dover. Von Calais bis Dunkerken 7 Meile, von dannen bis Ostende auch 7 Meile, zwar 2 französische sollen 1 Deutsche machen, aber gemeinlich gehen 3 französische auf 2 Deutsche.

Engellandt, welches 300 Meilen lang und 200 breit ist.

11.—Den 11. haben Ihre fürstliche Gnaden sich durch *fleissiges* anhalten des gubernatoris kund geben, und um 10 Uhr zu Mittage auf die Post gen Canterbury geritten, 12 englische Meilen, welche den italienischen gleich, ferner bis Roschester 20 Meile, welches, wie fast alle Städte in England, in die Länge gebauet war, hatte nur eine Strassen, am Wasser, niedrige Häuser, auch etliche mit Stroh gedecket, aber schöne logiamenter.

12.—Den 12. gen Gravescende 6 Meile, allda sind wir in einen Boot getreten, und haben uns den schönen breiten Strom, die Temse oder T^misin, hinauf rudern lassen, bis gen London. Dieser fluvius ist ein stattlicher Port, der-

DIARY OF THE JOURNEY OF THE MOST ILLUSTRIOUS
PHILIP JULIUS, DUKE OF STETTIN-POMERANIA,¹ ETC.,
ETC., THROUGH GERMANY, ENGLAND, [FRANCE,] AND
ITALY, 1602.

September 10th.—On the 10th [of September, 1602] at half-past twelve we went on board [at Boulogne] for the third time,² commending ourselves to God ; and with a pretty good wind we reached Dover at half-past five in the evening.

We almost ran aground in the harbour, the sailor having lost control of the helm. Here we took lodgings.

From Boulogne to Dover are 10 French leagues, the same distance as from Calais to Dover. From Calais to Dunkerque 7 miles³ [German?], from there to Ostende also 7 miles ; 2 French miles are said to make 1 German mile, but in general 3 French miles make 2 German miles.

England, which is 300 miles long and 200 miles broad.

11th.—On the 11th, at the urgent request of the Governor, his princely Grace made himself known, and at 10 o'clock at noon he rode by post to Canterbury, 12 English miles, which are equal to the Italian miles ; again 20 miles to Rochester, which, like most English towns, extends very much in length. It had only one street along the water, low houses, some of them thatched, but fine lodgings.

12th.—On the 12th on to Gravesend, 6 miles ; there we took a boat, and were rowed up the fine broad river Temse or Tamisis (Thames) to London.

¹ This was the title also of that branch of the ducal family which reigned in Pomerania-Wolgast, at present called 'Vorpommern,' whilst the present 'Hinterpommern' equals nearly at least the former duchy of Stettin-Pomerania.

² Three times the travellers had been delayed from sailing by contrary wind. The Duke, however, suspected the sailors to be acting in agreement with the inn-keeper.

³ It is not stated in the Diary whether German or English miles are here meant in this case, but probably the former are understood.

gleichen in ganz Europa nicht zu finden. 5 Meile vor Londen liegt das königliche Haus Grinwiche, da Königin Elisabeth geboren ist, in des jetzigen pastoris Hause zwei Büschenschossen davon, hatte der Admiral sein Wesen; zu Dortforde, gegenüber liegt eine lange Stadt Leinhaus, welches kann eine Vorstadt vor Londen genennet werden, allhier stunden viel Krieger und Kaufmans Schiffe. Wie wir in Londen ankommen, haben wir ein grosses Geläute fast in allen Kirchen gehört, welches sich ziemlich späte, wie auch die folgenden Tage bis um 7 und 8 Uhr auf den Abend erstreckt, und haben vernommen, dass ohne einige Noth die jungen Bursche zu ihrer Bewegung solche Kurzweil trieben, auch oftermals ein grosses Geld darauf verwetten sollten, wer die Glocke zum längsten ziehen oder auch zum künstlichsten beiern könnte, es wenden die Kirchspiel viel darauf, dass sie wohlklingende Glocken haben und eins dem andern möge vorgezogen werden; dies exercitium hätte die alte Königin sich wohl gefallen lassen, weil sie es vor eine Anzeigung gesunder Leute gehalten. Sonsten läutet man keinen Todten, allein wenn einer in letzten Nöthen lieget, wird in dem Kirchspiel, dahin der Kranke gehört, mit den Glocken so lange auf einen Borth angeschlagen, bis er entweder gar verschieden oder sich wieder erholet.

Als bald nun solches Zeichen gegeben wird, fällt männiglich sowohl auf den Strassen als in den Häusern auf seine Knie, und thut ein Gebet vor den Kranken.

13.—Den 13. ward eine comedia agirt, wie Stuhl-Weissenburg erstlich von den Türken hernacher von den Christen wiederum erobert. Wir sahen auch die acht Löwen, so von der Königin unterhalten werden, einer war 50 Jahr alt, item ein Leopard, ein Tigerthier, einen Luchs, auch einen alten Wolf, welcher deshalb gezeiget wird, weil keine Wölfe in Engeland zu finden.

14.—Den 14ten haben wir die Grösse der Stadt etlichermassen erfahren wollen, und weil eine lange Gassen fast mitten durch die Stadt gehet, sind wir dieselbe spazieret. Diese

This river is a stately port that does not find its equal in all Europe. Five miles below London lies Greenwich, the royal house where Queen Elizabeth was born.

At two musket shots' distance, in the house where at present the parson lives, the Admiral had his dwelling; at Dortforde (? Deptford) opposite lies a long town, Leinhaus (Limehouse), that may be called a suburb of London. Here were lying many men of war and merchant ships. On arriving in London we heard a great ringing of bells in almost all the churches going on very late in the evening, also on the following days until 7 or 8 o'clock in the evening. We were informed that the young people do that for the sake of exercise and amusement, and sometimes they lay considerable sums of money as a wager, who will pull a bell the longest or ring it in the most approved fashion.

Parishes spend much money in harmoniously-sounding bells, that one being preferred which has the best bells. The old Queen is said to have been pleased very much by this exercise, considering it as a sign of the health of the people. They do not ring the bells for the dead, but when a person lies in agony, the bells of the parish he belongs to are touched with the clappers until he either dies or recovers again.

As soon as this sign is given, everybody in the street, as well as in the houses, falls on his knees offering prayer for the sick person.

13th.—On the 13th a play was acted showing how Stuhl-Weissenburg¹ was gained by the Turks, and then won again by the Christians. We also saw the eight lions kept by the Queen; one of them was fifty years old, also a leopard, a tiger, and a lynx, even an old wolf kept on purpose because no wolves are to be found in England.

On the 14th we intended in some way to learn the extent of the city, and as one long street runs almost right across it we took our promenade there. This street has various names

¹ Stuhlweissenburg in Hungary was taken by the German army in the year 1570, lost by them three years later, and not retaken till 1601.

Strasse hat viele Namen nach Gelegenheit des Orts, den sie berührt, erstlich wird sie genendt Ritzen-Stritt, das ist Creutz-Kirch-Strasse, bei der Börse, Corneal, zwischen der Börse und Goldschmieder-Strasse, die Boltze, in der Goldschmieder-Strasse, Zipseut, bei S. Pavel, Paternoster, da die neue Porten stehet, Ludiget. Auf diesen Thor, welches geschlossen wird und die Vorstadt von der rechten Stadt scheidet, sitzen viele arme gefangene Leute, welche die Almosen betteln.

Bei den Herzogen von Sommer-Sitz, des thesauri, und seines Sohnes des secretarii, pallatio nennet man sie Distranten, bei dem collegio Flitzstritt, Teutbar, Dies Collegium heisset sonsten das Tempenhaus oder Tempelschule, weil es die Tempel- oder Rhodieser Herren gestiftet, welche auch darinnen begraben liegen. Die nun in ihren epitaphiis die Füsse übereinander schlagen, sind in der Schlacht blieben, die andern aber sonst verstorben. In diesem collegio waren bei 500 Kammern, zu Studentenwohnungen, welchen unterschiedliche herrliche Tische gehalten werden, die meisten mit Silbergeschirr wohl versehen. Hat einen schönen Lustgarten, dessen Mauer mit eitel Rosmarin überzogen. Solcher Schulen, darinnen sich die Studiosi, welche von der Universität kommen, häufig begeben, damit sie praxin aulicam ansehen mögen, sein 14 in London, von vornehmen Herren gestiftet, und müssen die Scholaren in diesen collegiis einen besonderen Habit tragen, nemlich ein Barret und langen Rock, ausserhalb denselben was sie wollen. Auch wird unter ihnen um alle 4 Jahr in der Fastnacht ein König erwählet, welchem von männiglich Zeit wärend der Regierung die sich sechs Wochen belauft grosse Ehre erzeiget. Er muss den Königinnen und dero ganzen Hof mit vielen vornehmen Herren ein köstlich panquet anrichten, darauf eine grosse Unkosten gewandt wird, da manchen sein ganz patrimonium aufgehet. Derohalben

according to the different places it passes. At first it is called Ritzen Street, *i.e.* Crosschurch Street,¹ near the Exchange, Cornhill, between the Exchange and Goldsmith Street, the Boltze (the Poultry), in Goldsmith Street, Zipseut (Cheap-side), near S. Paul's Paternoster, and, where the new gate stands, Ludiget (Ludgate).

At this gate, which is closed and which divides the suburb from the city proper, are to be seen a number of poor prisoners, begging alms.

Near the palace of the Duke of Sommer-Sitz (Somerset), the Treasurer, and that of his son, the Secretary, the street is called Distant (The Strand); at the College, Flitzstritt (Fleet Street), Teutbar (Temple Bar). This College is also called the Temple House or Temple School, from its having been founded by the Templars or Knights of Rhodes, who are also buried there. Those of them who, on their tombs, have their feet crossed were slain in battle, the others died in some different manner. In this College were about 500 rooms adapted as dwellings for the students, with separate messes, most of them well furnished with silver plate.

There is a fine pleasure garden, whose walls are quite covered with rosemary. Schools of this kind, where the students after having left the university frequently enter for the purpose of obtaining practice in the courts, are counted 14 in London, founded by members of the nobility. The students, while attending college, are obliged to wear a particular dress, *i.e.* a cap and a long gown;² otherwise they may wear what they like. Every fourth year at the beginning of Lent they elect a king among themselves, whose reign lasts six weeks, during which period great honour is shown to him by everybody. He is obliged to give a costly banquet to the Queen and to her whole court, which causes a great expense. Many a one spends all his patrimony on this occasion.

For this reason rich young noblemen are commonly

¹ The travellers would have entered the city from the south, by way of Gracechurch Street and Bishopsgate Street. It is probable that these are meant here.

² Literally coat.

sie gemeiniglich reiche junge Edelleute zu Königen erwählen, welche Macht haben in der Zeit Münze zu schlagen und von der Königin Thesaurirer als ihren Diener zu Extrazierung der Speise Geld aufzufordern.

Als wir des Gehens müde worden, sind wir in etliche Barken getreten, und die Themse hinunter gefahren, an welchen über 20 schöner *pallatia* gelegen. Auf den Nachmittag ward eine *tragica comœdia* vom Samsone und dem halben Stamm Benjamin agirt. Als wir zu dem Theatro gingen, haben wir ein Weibsbild in einem kleinen Häusslein, welches von Holze geschrenket, sitzen funden. Dieses hatte sich selbst wegen begangener Unzucht verrathen und sollte gegen Abend in das Weiberzuchthaus geführt werden, damit es eingenommenen Bericht nach eine solche Gelegenheit hat. Wenn Leute in ungebührlicher Beiwohnung betroffen werden, werden sie beiderseits aufgenommen, und die Männer zwar in einem besonderen Gefängniß mit Ruthen heimlich wohl gestrichen, aber von Stund an wieder ledig gelassen, die Weiber in ein sonderliches verordentes Haus geführt, darinnen sie oft über ein halb Jahr sitzen, und alle Wochen zweier guten Staupen gewärtig sein müssen, welche sie doch mit dritthalb Thaler zu jedesmahl abkaufen können. Immittelst ernähren sie sich ihrer Handarbeit; die nichts gelernet, müssen wahrlich sich genau behelfen, bis endlich, wann sie genug pönitiret, und die Freunde um Erledigung anhalten, sie auf Caution wiederum ausgelassen, und ist uns für wahr gesagt, dass mancher Ehemann sein Weib aus solchem Hause wieder zu sich nehmen soll.

15.— Den 15. wollten Ihre fürstliche Gnaden auf die Börse gehen, da die Kaufleute auf einen viereckig eingebauten Platz häufig zusammen kommen. Oben hat es eine schöne breite gewölbete Gallerie, da fast Alles zu kaufen was von köstlichen Waaren ein Mensch immer erdenken mag. Um 11 Uhr zu Mittag und 5 zu Abend gehet der unterste Platz so voll Leute, dass man sich mit aller Gewalt da durch dringen muss; und ist sonderlich an diesem Orte lustig gehen, weil man keine Beschwerde und Ansprache von die Bettler hat

elected kings, who, during their reign, have power to coin money, and to command the Queen's Treasurer, as their official, to assist in furnishing their table.

When we were tired with walking, we stepped into some barges, and rowed down the river Thames, on the banks of which are situated more than twenty fine palaces.

In the afternoon a tragic play was acted about Samsen and the half tribe of Benjamin.

On our way to the theatre, we saw a woman sitting in a little shed made of wood.

She had betrayed herself by unchaste conduct, and towards evening was to be taken to the female penitentiary. We were told that in such cases things are managed as follows. If persons are found in illicit cohabitation they are both arrested. The men are taken to a separate prison, and there well whipped with rods secretly, but after that they are at once set at liberty. The women are taken to a house especially appointed for the purpose, and are kept there sometimes for more than half a year, and twice a week they may expect to get a good whipping, but by paying 2 thalers and a half each time, they may escape these. Meanwhile, they earn their living by some handicraft; those that have not learnt anything must indeed be badly off. When at last they have been sufficiently punished, or their friends intercede for them, they are set at liberty on bail, and it has been asserted to us as a truth, that many a husband has taken his wife back from a house of this kind.

On the 15th his princely Grace intended to see the Exchange, where the merchants are used to assemble in a square, covered space. Round the top is a fine broad vaulted gallery, where may be bought almost everything a man may imagine in the way of costly wares.

At eleven o'clock at noon, and at five o'clock in the evening, the lower part becomes so filled with people that only by force you are able to make your way. It is a pleasure to go about there, for one is not molested or accosted by beggars, who are elsewhere so frequently met with in places

die anderswo in solchen Plätzen sich häufig finden. Denn in ganz Engelland leidet man keinen Bettler, es sei denn Sache, dass ihrer wenige ausserhalb Thores aufwarten, sondern ein jeder Kirchspiel ernähret seine Hausarmen, frembde Leute werden ins Hospital geführt; sollten sie aber in demselbigen Königreiche oder von ferneren Orten herkommen, werden sie von einem Kirchspiel zum andern geführt, und mit aller Nothdurft unterhalten bis sie endlich in ihre Heimath gelangen. Ebener massen wird es mit denen Soldaten gehalten

September 16.—Den 16. zu morgens sein Ihre fürstliche Gnaden nach erlangter Concession auf den Tour von London, welches ein altes doch festes Schloss von Julio Cæsare noch erbauet, darauf die Gefangenen gehalten, gegangen, und erstlich auf einen langen Saal geführt worden, der voller Harnische gelegen, wohl auf hundert tausend Mann, wie man davon sagen wollte, aber diese Rüstung war nicht ordentlich aufgefliehen, auch nicht sauber gehalten, allhier ward uns gezeigt eine sehr schwere Sturmhaube mit einer Musqueten beschossen, auch eine grosse Rönnestangen, damit der Herzog von Sopfat die Königin aus Frankreich, welche eine geborene Engländerin gewesen, auf dem Turnier gewonnen. Unter diesem Saal stunden 80 grosse Stücke, darunter viele so den Spaniern genommen, auch zwei hölzerne mit welchen König Hendricus octavus Boulogne in Frankreich durch ein sonderlich stratagema, wie wir ohnlängst gedacht eingenommen. Sonsten liegen vor dem Schloss mehr als 200 gegossene Stücke, gross und klein. In diesem logiamente war ein schöner Vorrath von Pichpfützen, so man mit Bogen in die Schiffe scheust, dieselbe anzuzünden, auch desselben Art zugerichtete grosse Pfeile, wie denn auch Stöcke mit Pechkränzen zugerichtet, aus Kammer Stücken zu schiessen. Gleichfalls Pfeile, die man aus Musqueten scheust, Bogen welche feurige Kugeln werfen, ein mächtiger grosser Haufen gemeiner Bogen und Pfeile derer man sich gegen die Irländer gebraucht, Speere, welche die Reuter führen, etliche auf den Knien, etliche nur in der Hand zu schiessen. Im dritten Saal stunden sehr viele

of this kind. For in all England they do not suffer any beggars, except they be few in number and outside the gates.

Every parish cares for its own poor; strangers are brought to the hospital, but those that belong to the kingdom or have come from distant places, are sent from one parish to the other, their wants being cared for, until at last they reach their home.

Soldiers are treated much in the same way.

16th.—On the morning of the 16th, his princely Grace, having obtained permission, visited the Tower of London, an old but strong castle built by Julius Cæsar, where they keep the prisoners. At first (we) were led into a long hall, full of harness, maybe for a hundred thousand men, as one might say; but this armour was not properly arranged, nor kept clean; a heavy basnet¹ helmet was shown to us, that had been shot at with a musket, also a big tilting-lance, with which the Duke of Sopsat (Suffolk)—at a tournament—won the Queen of France, a born English lady. Below this hall there stood eighty large pieces, many of them having been taken from the Spaniards, also two wooden ones, by which king Henricus Octavus, using a peculiar stratagem, gained Boulogne in France, as we mentioned above.² Besides these, there stand in front of the castle more than 200 cast pieces, large and small. In this lodgment there was a goodly number of pitch (?) -arrows, for shooting with bows into ships, to set them on fire; also big arrows of the same kind and sticks (poles) with pitched garlands attached to them, for being shot out of chamber-guns.³ Also arrows for shooting from muskets, bows for throwing fiery balls; a mighty large heap of common bows and arrows, such as are used against the Irish; lances used by horsemen, some for driving from the knee, some only to be thrown by hand.

In the third hall stood a great number of halberds, most of them gilded over and covered with red velvet for the life-

¹ 'Literally 'storming helmet,' probably used to protect the head from molten lead, hot pitch, &c., used to prevent injury during assaults. French, *basinet*.

² In the Diary of the journey through France.

³ Brach-loader.

Helleparten, meistens überguldet und mit rothem Sammet beschlagen vor die Leibgarde, viele Tartzen so gemacht, dass man darunter ein Rohr abschiessen konnte, und ein mit glänzenden Steinen versetzt, den Feind damit gegen die Sonne zu verblenden, waren alle leicht, weil sie nur von Pappe gemacht. Des Königs Henrici octavi Kürass war mit rothem Atlass überzogen und mit Gold gar köstlich gesticket. Als wir hinunter auf den Platz kommen ward uns der Ort gezeigt, da der tapfere Held Graf von Essex enthauptet und in der nächst dabei liegenden Kapelle begraben worden. Wie lieb und werth dieser Graf in dem ganzen Reich gehalten, stehet genugsam daraus zu ersehen, dass sein Lied darinnen er der Königin und dem ganzen Lande valediciret, und auch die Ursache seines Unglücks anzeigt, hin und wieder im Reiche, ja in dem königl Hoflager selbst in unsrer Gegenwart ist gesungen und auf Instrumenten gespielt worden, da doch seine Memoria als eines rei majestatis publico judicio damniret. Weiter sehen wir die überaus stattlichen Tapezereien von gutem Golde und bester Seiden gewircket, auch eine sehr grosse Sammet decke, darauf mit der Nadel von lauterm Golde gestippet, wie ein Herzog aus Sachsen Holz fället und seine Gemahlin brennet Kohlen; viel schöner ganz verguldeter Bettstellen, welche man gebraucht, wenn fremde Herrschaft ankommt, köstliche Küssen von allerlei Farben guldenen Stücken, insonderheit aber zwo Betten, eines mit grossen Perlen und Granaten besetzt, das andre mit ganz geschlagenen Golde überzogen, welches im Panzer ausgearbeitet, darauf man doch nicht gar sanfte liegen muss.

Wir haben abermahl, weil die Königin nicht zu London, das herrlichste Kleinod auf diesem House nicht gesehen, nemlich ihren königlichen Schmuck nebst der Krone und Scepter, insonderheit ward gerühmet ein Rock, mit einer Einhornshaut oder Fell gefüttert, soll ein langes zottiges ungestaltetes Futter sein, weil es aber sonsten nirgends zu finden, wird es sehr hoch geächtet. Von dannen sind wir auf des Julius Cæsaris Ess-stuben, wie man es dafür hält, und folgend auf den Thurm gestiegen, welcher ganz mit Blei

guards, a number of targets, made in such a manner that a gun could be discharged underneath them, and one covered with glittering stones, so as to dazzle the enemy with the sun. They were all light, being made of pasteboard. The armour of King Henricus octavus was covered with red satin, and splendidly embroidered with gold.

On descending to the courtyard, the spot was shown to us where the brave hero the Earl of Essex was beheaded, and lay buried in the chapel close by. How beloved and admired this Earl was throughout the kingdom, may be judged from the circumstance that his song, in which he takes leave of the Queen and the whole country, and in which also he shows the reason of his unlucky fate, is sung and played on musical instruments all over the country, even in our presence at the royal court, though his memory is condemned as that of a man having committed high treason. Besides this we saw very stately hangings, worked in good gold and best silk; also a very large coverlet of red velvet, embroidered in pure gold, representing a duke of Saxony cutting wood and his wife burning coal.¹ Many fine bedsteads, gilt all over, used when visitors of high rank arrive; costly cushions of all colours and golden stuff, but especially two bedsteads, one covered with large pearls and granates, the other covered with beaten gold, worked out in armour fashion² (?) but not very soft to lie upon.

The Queen not being in London, we again failed to see the most splendid treasure in this House—that is, the royal jewels, with crown and sceptre; a gown there was specially renowned, being lined with the skin or fur of a unicorn; it is said to be a long, shaggy, uncouth lining, but because it is found nowhere else, it is very highly esteemed.

From thence we went to what is held to be Julius Cæsar's dining-rooms, and afterwards mounted the tower, covered all over with lead.

There stood 17 heavy cannon, which the Earl of Essex

¹ *I.e.* charcoal.

² Probably 'repoussé' work.

gedeckt, darauf 17 Stück grosse Geschütze stunden, aufs Wasser und auch auf die neue Stad gerichtet welche Graf Essex von Cales Males hingebracht, darunter auch ein sächsisch Stück gewesen. Wenn man zum Blutthurm ausgehet, der daher den Namen hat, dass König Richardus seine beyde junge Vettern welchen er zum Vormund verordnet, darauf jämmerlich hat umbringen lassen, kombt man in die Münzstrassen, da wir mehr denn 50 Personen antreffen, die eitel Silber schlugen, gelden bey uns so viel als einen Orthsthaler.

Auf den Nachmittag haben wir den Bär u. Stierhetze zugesehen, welches eine feine Lust, sonderlich weil die Hunde wohl abgerichtet, wir dann eine grosse Menge und wohl mehr als 200 Hunde an selbigem Ort in einem besonderen Häuslein unterhalten und algerichtet werden.

17.—Den 17. haben ihre fürstliche Gnaden doch unbekannter Weise bei dem Lord Mayor Jan Geret zu Mittag gegessen da sie denn gar fürstlich von mancherlei Art Fischen weil es am Freytage, und köstlichem Wein tractiret worden. Die Stube war ganz mit Tapeten beschlagen, die Stuben aber alle mit rothem Sammet überzogen, die Schüsseln, Teller, Giesskannen und Becken alles Silber. Es präsentirten sich auch seine drei schöne Töchter unter welchen die älteste nebst uns an der Tafel gesetzt ward, die Aufwärter, welche zu Tische dienten, hielten auch eine besondere lange Tafel, da denn allezeit von sie besonders angerichtet. Gedachter Lord Mayor verwaltet das Bürgermeister Amt, welches die höchste Dignität in ganz London ist, und währet seine Magestät nur ein Jahr, welche Zeit über eine freye Tafel täglich halten muss, derohalben man auch gemeinlich reiche Leute dazu erwehlet. Gebraucht er sich nun in diesem hohem Amte der Vorsichtigkeit, dass kein Tumult oder Aufruhr in der Stadt seit seiner Regierung erhebt, so wird er verflossenen Jahrs zum Ritter geschlagen und alle seine Kinder geadelt, hat auch Macht, güldene

DIARY OF THE DUKE OF STETTIN' **DETROIT, MICH.**

had brought from Cales (Cadiz) Males, pointing towards the river and the new town. Among them was one Saxon piece. Coming out of the Bloody Tower, so named because of King Richardus having there most miserably put to death his two young cousins who were placed under his guardianship, we came to Mint-street, where we found more than 50 persons making coins of pure silver, each of them equal in value to one of our Ortsthalers.¹

In the afternoon we witnessed a bear and bull fight, which is a fine amusement, especially because the dogs are well trained, a large number of them—perhaps more than 200—being kept there in separate kennels and trained.

17th.—On the 17th his princely Grace dined incognito with the Lord Mayor,² Jan Geret, and fared very sumptuously off various kinds of fish, it being Friday, and costly wine.

The room was entirely hung with tapestry, the chairs all covered with red velvet; the dishes, plates, water-jugs, and basins all of silver.

His three beautiful daughters also presented themselves; the eldest of them was placed near us at table. The attendants who waited upon us at dinner, had a long separate table to themselves, where dinner was served for them.

The said Lord Mayor holds the office of burgomaster, which is the highest dignity in all London, his magistracy lasting only one year. During this time he is obliged to keep open house daily, on which account generally rich people are chosen. If he manages his high office with prudence, so that no riot or tumult arise in the town during the time of his government, he is made a knight, when the year has expired, and all his children ennobled. He is also entitled to wear golden chains, that hang down behind as far as in front.

¹ One ortsthaler equals the fourth part of a thaler, in value of about 80 pfennings, or about 9½d.

² Sir John Gerrard was really Lord Mayor in the preceding year.

Ketten zu tragen, welche rückwärts soweit hinunter als vorne gehen.

Nachdem ihre fürstliche Gnaden von den Lord Mejer ihren Abschied genommen, sind sie in das deutsche Haus gegangen, da ein Kaufman etliche Reinische Weine präsentiret, von dannen zu Wasser auf Westmünster gefahren und erstlich den grossen Saal gesehen, da die Reichstage gehalten werden, war 34 Schritt breit und 13 Gebinde lang, einer zeimlichen Höhe, doch ohne Pfeiler und Unterschlag, mit Irländischem Holze gleich also gewölbet, welches Holtz keine Spinnen oder vergiftete Thiere leiden kann. Von dannen in die herrliche Kirche zu Westmünster, so erstlich von Siberto, der *Orientalium Saxonum* oder *Essexiae* und *Mittel Sexiae* König gestiftet worden, anno Christi 605, hat den Namen Westmünster ab *occiduo situ et monasterio*. Diese jetzige Kirche aber hat *Henricus tertius*, anno 1420, wiederum erbauet und alle Pfeiler darin von grauem Marmor aufgeführt, insonderheit aber stehet wohl zu sehen die überaus schöne und köstliche Capelle *Henrici septimi* welche er zu seinem Begräbniss, das von Glocken speise darinnen vorhanden, anno 1502, mit unglaublichen Unkosten in die vierzehntausend pounds Englisch construiet und inwendig mit ausgehauenen Steinen wie denn auch mit künstlichen durchbrochenen hängenden grossen Rosen also gezieret, dass *Lelandus* es *orbis miraculum* nennet. Die köstlichen *epitaphia* in *capella regum et caeterorum sanctorum* ex *Lydio Borphiro* et *Pario lapide*, auch etliche silberne und ertzen Begräbnisse mit ihrer Ueberschrift seyn in einem besondern Büchlein zusammen gedrucket. Ich will nun des ersten fundatoris, welcher unter einem schlechten Stein begraben liegt, *epitaphium* allhier setzen, daraus der Zeit Gelegenheit etlicher massen zu ersehen.

*Labilitas brevis mundanae prosperitatis
Caelica praemia gloria gaudia danda beatis
Sebertum certum jure dedere satis.
Hic Rex christicola verus fuit hac regione,
Qui nunc coelicola gaudet mercede coronae,*

When his princely Grace had taken leave of the Lord Mayor, he went to the German House, where a merchant offered some Rhenish wines, thence by water to Westminster, and saw there first the large hall, where Parliament is held, 34 paces broad and 13 panels¹ long, of tolerable height, without pillars and supports, but vaulted with Irish wood, a species of timber that suffers no spiders or venomous creatures. Then we saw the splendid abbey of Westminster, founded originally by Siberto, king of the orientaliſm Saxonum or Essexiæ and Middle Sexiæ, anno Christi 605.

It has the name Westminster ab occiduo situ et monasterio. This present church was re-erected by Henricus tertius, anno 1420 (1240?), all the pillars being constructed of grey marble.

The most remarkable part of it is the exceedingly fine and exquisite chapel of Henrici septimi, erected by him in the year 1502 for his tomb, and with the bell-metal it contains cost the incredible sum of about 14,000*l.* English.

The inside is so adorned with carved stones, also with large pendant roses in open work, that Leland² calls it '*orbis miraculum*.'

[Descriptions of the] splendid epitaphia in capella regum et cæterorum sanctorum ex Lydio Borphiro (sic) et Pario lapide, as well as of some sepulchres worked in silver and brass, with the inscriptions, are given in a little book. I shall give here the epitaph of the first founder, who lies under a common stone.

¹ Spaces between the timbers in the wall, panels.

² John Leland, librarian of Henry VIII., was born in London, studied in Oxford, Cambridge, and Paris. After his return from abroad he took Holy Orders, and was sent out to study the libraries of all the churches, abbeys, and monasteries of England, collecting everything he could find about the former state of the kingdom. He died April 18, 1552, leaving behind him a great many manuscripts, only part of which have been printed.

Rex humilis docilis sciens et pius inclitus iste
Sollicite nitide tacite placide (bone Christe).

Vult servire tibi perficando sibi ornat
mores spernet flores lucis avarae, gliscens
multum Christi cultum latificare,
Ecclesiam nimiam nimio studio fabricavit.
Haec illaesa manus quae fundamenta locavit
Hic septingentis annis terra cumulatus.
Christi de mentis instinctibus inde levatus.

Isto sub lapide jacet ipse VIDE,
Atque domum Christo quia mundo fecit in isto,
nunc pro mercede coeli requiescit in aede.
Respice mortalis, promissio sit tibi talis :
Accipies si des, nil capies nisi des,
Es Christo qualis, Christus erit tibi talis,
Dapsilis esto sibi largus eritque tibi
Effectus non affectus si reddere possis.
Debet censi si nihil reddere possis
Tunc bonus affectus pro facto debet haberi
Sicut de lignis per aquam depellitur ignis,
Sic mala commissa fiunt donando remissa.
Reddat ad usuram quis dat [in] nomine Christi,
Nam vitam puram pro parvo dat Deus isti.

Diese Kirche ist nicht allein wegen der köstlichen Begräbnisse berühmt, sondern auch wegen der königlichen Krönung und weil die Reichs-regalia alda verwahret. In der königlichen Capellen stehet ein schlecht hölzerner Stuhl, darauf die Krönung geschicht. Unter den Sessel liegt ein grosser Feldstein, davon man fabuliret, dass es soll eben der sein, welchen der Patriarch Jacob unter dem Haupte gehabt, als ihm von der Leiter geträumet. Gemeldeter Stuhl ist neben der güldenenen Kron und Scepter von Eduardo primo, als er die Schotten überwunden, anno 1305, aus Schottland in London gebracht worden, und hat der eventus gegeben, dass diese translatio solii inaugurationis ein gut omen vor die Königin in Schottland gewesen sei, darauf nunmehr der rechte Erbherr gekrönnet.

This church is not only celebrated on account of its splendid monuments, but also because the coronation of the Kings takes place here, and the jewels of the realm are kept here. In the Royal Chapel stands a common wooden chair whereupon the coronation is performed. Under the chair lies a large stone,¹ which is said to be the very one that Jacob the Patriarch had under his head when he dreamed about the ladder.

The said chair, as well as the gold crown and sceptre, were brought from Scotland to London by Eduardo primo, when he vanquished the Scotch, anno 1305.

The event has shown that this *translatio solii inaugurationis* was a good omen for the kings of Scotland, the rightful heir now being crowned upon it.

¹ Literally, 'field stone,' *i.e.* a rough stone.

Nicht weit von Westmünster ist gelegen das königliche palatium Witehal, erstlich vom Cardinal Wulsey erbauet der eines Metzigers Sohn, zum höchsten Dignitäten und Reichthum in dem Königreich gestiegen, aber endlich durch Hoffarth, weil er Pabst von Engelland sein wollen, und Aufruhr gefallen ist. Auf der einen Seite liegen 2 Ballhäuser, das Kugelhauss und noch ein rundes Haus, darinnen die Herren zu Winterszeiten kämpfen. Nächt am Thiergarten darinnen wir viel Wild und Kraniche gesehen, auf der andern Seite ist eine schöne Gallerie von köstlichen Gemälden, Landtaffeln und Conterfeyen. Alhier stund König Henricus octavus abgemahlet, hatte seinen Sohn Eduardum, den letzten des Geschlechts im Arm, auf beiden Seiten stunden seine 2 Töchter; nicht weit davon zweyen nackenden Weiber Conterfey, die derselbe König ihren Ehemännern entführet. Die Logiamenter in diesem palatio sind fast alle niedrig und mit vielen Winkeln, als die Mönche pflegen, gebauet, das paviment mit Matten gedeck, welch artig und zierlich in einander geflochten, welches denn eine schöne Weise durch ganz Engelland ist.

Arme Leute brauchen anstatt der Matten ein Kraut wie Besen, welches sie dicke streuen, darauf man denn fein sanft hineingehet. Es giebet zu Winterszeit eine ziemliche Wärmden und hat gleichwohl keine Noth, vom Feuer, welches es nicht leichtlich entfähret. In allen Logiamentern waren schöne instrumenta vorhanden; mit Sammet überzogen; wurden weiter in einen langen Gang gebracht, darinnen viel schöne Schilde aufgehangen, mit künstlichen emblematis gemahlet welche die Ritter in ihren Aufzügen geführet, da denn zu merken des grossen vornehmen berühmten Kriegesherrn Grafen von Essex beyde Reime, welche er wider den Freyherrn von Borle oder Burghedt, der Königin secretarium in unterschiedlichen Ringrönnen gebrauchet. Mit diesem secretario ist er in stets wehrendem Zank gestanden, welcher auch eine Ursache seines endlichen Untergangs gewesen. Als er nun gesehen, dass er dem Freyherrn von Borle nichts anhaben mögen, besonders weil er seiner Mutter wegen, die

Not far from Westminster is the Royal palatium, Witehal (Whitehall), first built by Cardinal Wulsey, a butcher's son, who rose to wealth and the highest dignities in the kingdom, but who at last fell by pride and sedition, inasmuch as he wished to become Pope of England. On one side are two ball-houses,¹ a bowling house and another round house, where gentlemen fight in the winter time [practice fencing?]. Close by is the (animal) garden, where we saw much game and some cranes; on the other side is a fine picture gallery, with splendid paintings, maps and portraits.

Here was a portrait of King Henricus octavus, with his son Eduardus, the last of the family, on his arm. On either side there stand his two daughters; not far off were the portraits of two naked women, whom this king had enticed from their husbands.

The lodgments in this palatio are almost all low, and constructed with many recesses after the monkish way of building; the pavement is covered with neatly and tastefully plaited mats, which is a nice fashion throughout England.

Poor people use a shrub like broom instead of the mats; this they strew thickly about, and it is very soft to walk upon. In winter-time it affords tolerable warmth, and as it does not easily catch fire, there is no danger.

In all of the lodgments there were fine instrumenta, covered with velvet.

Afterwards we were led into a long gallery, in which were hanging many fine shields, painted with artistic emblemata, that the knights use in their processions, and our notice was directed to the two verses used by the great and celebrated noble warrior the Earl of Essex in several tournaments against the Lord of Borle or Burghedt (Burleigh), the Queen's Secretary.

With this Secretary he was for ever at strife, and this was one of the causes of his fall.

Seeing that he could accomplish nothing against the Lord of Borle, chiefly on account of his mother, a Countess of

¹ For the game of rackets.

eine Gräfin von Oxford, nunmehr hochbefreundet und ohne das der Königin lieb und angenehm, hat er auf einem Schilde machen lassen eine Wage und in der einen Schale ein gross Geschütze, in der andern eine Schreibfeder welche doch das Geschütz weit überwogen, mit dieser Inscription: Et tamen vincor. Weil er aber der Schreibfeder auch also nichts anmögen, ist er noch einmahl aufgezogen, und mit einem Schild mit schwarzem Sammet überzogen und mit schwarzen Steinchen gesticket geführt, in dessen Mitte folgende Worte mit goldenen Buchstaben gedrucket: Nulla par est figura dolori. Was nun diese bitere Feindschaft für ein trauriges Ende genommen, hat der Ausgang, Gott erbarme es, neulich gegeben. In der Königin Cabinet funden [wir] viele schöne Bücher in Sammet gebunden und mit Golde beschlagen, auch ein lateinisches Gebetbuch, welches die Königin selbst mit eigenen Händen gar rentlich und mit einer schönen Vorrede ihrem Herrn Vater dediciret, ein Spiegel, mit köstlichen Perlen besetzt, ein gross silbern Schreibzeug, darunter ein Instrument. Der Königin Schlafzimmer war sehr dunkel, hatte wenig Luft und nächst daran eine feine Badestube, dabey ein köstliches Bette von indianischer Arbeit, war Seidenzeug, aber auf der einen Seite wie es sich ansehen liess gemahlet. Der Stuhl so hart darneben stund, hatte keinen gemachten Sessel, sondern war von der Erde aufgesetzt mit grossen Küssen aus goldenen Stücken gemacht; eine grosse lange Lade mit Perlenmutter beschlagen und künstlich ausgearbeitet; noch ein grosser Tisch mit Silber ganz überzogen; König's Henrici octavi Conterfeyt sehr künstlich gemahlet, dass sein Angesichte, wan es durch eine sonderliche opticam sah, länger scheinete als der ganze Leib. Dem Wasser nach liegen die Lustgärten darinnen schöne Kräuterstücken, dazwischen kleine Bäumlein gesetzt, auf den Ecken stunden grosse hölzerne Pfeiler als termini, daran allerley Art vierfüssiger Thiere künstlich geschnitten, auch war in dem Garten eine feine Fontaine.

18.—Den 18ten., weil ihre fürstliche Gnaden von einer Kunstkammer gehört, so ein Gentilman Meister Kopf ange-

Oxford, who greatly befriended him, and on account of his being a favourite and friend of the Queen, he got a shield made with a pair of scales upon it, and in the one scale was a big cannon, in the other a writing-pen which nevertheless out-balanced the cannon, with this inscription : ' *Et tamen vincor.*' Not having accomplished anything with the writing-pen he made another attempt and covered a shield with black velvet and embroidered with small black stones ; in the middle were printed the following words in golden letters : ' *Nulla par est figura dolori.*' To what a sad ending this bitter enmity came at last, the result—God have mercy upon us—has lately showed.

In the Queen's cabinet [we] found a number of beautiful books bound in velvet and mounted with gold, also a Latin prayer book, that the Queen had written very nicely with her own hand and, in a beautiful preface, had dedicated to her father ; a looking-glass set with costly pearls, a large silver inkstand, with an instrument underneath.

The Queen's bedroom was very dark, and but little air ; close by was a nice bath-room, also a costly bed of Indian work ; it was of silk, but, as it seemed, painted on one side.

The chair that stood close by had no actual seat, but rose from the floor in the shape of large cushions composed of golden cloth. A large and long chest, inlaid with mother-of-pearl and worked artistically, also a large table entirely covered with silver.

The portrait of King Henricus Octavus was painted in such a cunning manner, that the face, when looked at through a peculiar optica, seemed to be longer than the whole body. Towards the river the pleasure-gardens show some fine flower-beds and little trees in between. At the corners stood big wooden pillars as termini, upon which are carved artistically different kinds of quadrupeds ; there was also a fine fountain in the garden.

18th.—On the 18th, his princely Grace having heard of a museum arranged by a gentleman, Master Kopf, we drove

richtet, seyn sie auch dahin gefahren und viel wunderbars Dings angetroffen, als nemlich allerley Wehr und Waffen, so in India orientali bräuchlich.

Etliche Kronen welche die Königin in Amerika getragen, viele Schilde und Schwerter, ein Dolch ganz von Stahl hatte eine Scheide ganz von schwarzem Lack oder spanischem Wachs. Weiter zwey Zahnen von Meer-ross, das Horn eines Rhinocerotis, war nicht lang aber krumm über sich gebeuget, wie denn auch der Schwanz sehr grob von Haaren; viele frömbde Würme, Vögel und Fische, ein Salamandram Scolopendram, ein kleines Vögelschen aus India, welches bei Nacht leuchtet, das berühmte kleine Fischlein Remoram, hatte fast Schuppen wie ein Kaulbars wie viereckigt, hatte einen Kopf wie eine Quappen, item cauda Delphini und eine Mumiam. Es wurden auch viele indianische Schriften und Bücher gefunden, ein paspart so der König von Peru den Engelländern mitgegeben, in Holz künstlich geschrieben, mancherley Wunder Gewächs von cucumern, das bey den Alten berühmte instrumentum musicum Cymbalum genandt, war rund wie eine Kugel von Erz und Stahl, wan man es bewegte, gab es einen Klang wie ein Triangel; man mag aber jetzo nicht wissen, wie es vor Zeiten gebraucht worden.

Es wendet auch dieser Edelmann viel auf künstliche Gemälde, derer etliche unter 50, etliche unter 80 Kronen nicht gezeuget. Von dannen sind wir auf die Kinder-comœdiam gangen, welche im Argument judiciret eine castam viduam, war eine historia einer königlichen Wittwe aus Engellandt. Es hat aber mit dieser Kinder-comœdia die Gelegenheit: die Königin hält viel junger Knaben, die sich der Singekunst mit Ernst befeissigen müssen und auf allen Instrumenten lernen, auch dabenebenst studieren. Diese Knaben haben ihre besondere præceptores in allen Künsten, insonderheit sehr gute musicos.

Damit sie nun höfliche Sitten anwenden, ist ihnen aufgelegt, wöchentlich eine comœdia zu agiren, wozu ihnen denn die Königin ein sonderlich theatrum erbauet und mit

there and found a great many wonderful objects, as various arms and weapons used in India orientali.

Some crowns worn by the Queen in America, a number of shields and swords. A dagger entirely made of steel had a scabbard made wholly of black lac or Spanish wax.

Further, two teeth of the sea-horse, the horn of a rhinoceros, was not long but bent upwards, also the tail with very coarse hair.

Many strange worms, birds, and fishes, a salamander scolopendra, a little Indian bird phosphorescent by night; the celebrated little fish, Remoram, had scales almost square like a stone perch, a head like an eel-pout; also a cauda Delphini, and a mummy.

We further saw many Indian manuscripts and books, a passport given by the King of Peru to the English, neatly written on wood, various strange cucumber plants.

The musical instrument celebrated in ancient times, and called cymbalum, was round like a globe of brass or steel; when touched it gave forth a sound like a triangle, but it is not now known how it was used in early times.

This gentleman also spends a good deal on artistic paintings; some of them had cost not less than fifty or eighty crowns. Thence we went to The Children's Comœdiam, the argument treated of a castam viduam, and was the story of a royal widow of England.

The origin of this Children's Comœdiam is this: the Queen keeps a number of young boys who have to apply themselves zealously to the art of singing and to learn all the various musical instruments, and to pursue their studies at the same time. These boys have special præceptores in all the different arts, especially very good musicos.

And in order that they may acquire courteous manners, they are required to act a play once a week, for which purpose the Queen has erected for them a special theatrum

köstlichen Kleidern zum Ueberfluss versorget hat. Wer solcher Action zusehen will, muss so gut als unserer Münze acht sundische Schillinge geben, und findet sich doch stets viel Volks auch viele ehrbare Frauens, weil nutze argumenta und viele schöne Lehren, als von andern berichtet, sollen tractiret werden; alle bey Lichte agiret, welches ein gross Ansehen macht. Eine ganze Stunde vorher höret man eine köstliche musicam instrumentalem von Orgeln, Lauten, Pandoren, Mandoren, Geigen und Pfeiffen, wie denn damahlen ein Knabe cum voce tremula in einer Basgeigen so lieblich gesungen, dass wo es die Nonnen zu Mailand ihnen nicht vorgethan, wir seines Gleichen auf der Reise nicht gehört hatten.

19.—Den 19ten weil es Sontag war gingen wir nicht viel aus, durfften den grossen Pracht in Kleidung nicht sehen, weil die Engelländer alle Tage ziemlich hereintreten, haben die köstliche seidene Waaren, wie man sie in Italien immer finden mag, ist ihnen auch nichts zu theuer, insonderheit halt sich das Weibervolk sehr reinlich mit ihrer Leingewand und Krausen, welche alle blau gestärket. Tragen Alles und sammete Tüchern und eine gar zierliche ehrliche Kleidung, seyn höfflichen Sitten und Gebärden, und werden wie ich oft habe sagen hören, für die schönsten Leute sowohl Mannes, als Weibsbilder von Proportion und gesunder natürlicher Farbe gehalten.

20.—Den 20ten als ihre fürstliche Gnaden sich vorgenommen, die weitberühmten beyden Universitäten nebst den vornehmsten königlichen Häusern in Engelland zu sehen, seyn sie als heute von London, welches im Mittel Sexia gelegen, aufgebrochen nach Thiepoltz (?) 3 Meilen in der Grafschaft Hertforth, erbault von Wilhelm Sitzell, Freyherrn zu Boule oder Burget, dessen Sohn, der Lord secretarius, es jetzo besitzt.

with an abundance of costly garments. Those who wish to see one of their performances must give as much as eight shillings of our [Stralsund] money,¹ but there are always a good many people present, many respectable women as well, because useful argumenta, and many good doctrines, as we were told, are brought forward there. They do all their plays by [artificial] light, which produces a great effect. For a whole hour before [the beginning of the play] a delightful performance of musicam instrumentalem is given on organs, lutes, pandores, mandolines, violins, and flutes; and a boy's singing cum voce tremula in [!] a double-bass so tunefully, that we have not heard the like of it on the whole journey, except perhaps the nuns in Milan did it better.

19th.—The 19th. As it was Sunday² we did not go out much, and did not notice the great splendour of the dresses, because the English show themselves very well dressed every day, having splendid silken stuffs, such as we always found in Italy. Nothing is too expensive for them, and the ladies especially look very clean, with their linen and frills all starched in blue.

All wear shawls of silk and velvet, and graceful and stately gowns; are of polite manners and gestures, and are esteemed to be, as I have often heard it said, the most beautiful people, men as well as women, of good proportion, and of a healthy, natural colour.

20th.—On the 20th his princely Grace, intending to visit the two far-famed universities, as well as the most celebrated royal residences in England, we started to-day from London, which lies in Middle Sexia, for Thiepoltz (Theobalds) in the county of Hertforth (Hertford), three miles off, erected by William Sitzell (Cecil), Lord of Boule or Burget (Burleigh), whose son, the Lord Secretary, possesses it at present. The

¹ One Pomeranian or Stralsund shilling is equal to about $1\frac{1}{2}d.$ of present English money.

² According to the calendar of Julius Cæsar, otherwise the 19th of September would have been Thursday.

Das Schloss hat 5 Plätze, der letzte war noch nicht ganz eingebauet, ist sonder Zweifel eines der schönsten Häuser in Engellandt, hatt 20 Einfherung Thurm, sowohl als das ganze Hauss mit Bley gedecket, welches wir oben umgehen können. Wurden vors erste in ein schön Gemach geführt mit nüsbaumen Holtz getäfelt und an vielen Orten stark verguldet. In denen Fenstern waren gesetzt die Waffen der vornehmsten Potentaten in der Welt.

Die andern zimmer waren alle mit köstlichen tapezereien, sammeten Betten und Stühlen aufs prächtigste geschmücket. Insonderheit waren zu sehen die drey Gallerien: in der ersten stunden abconterfeyet die vornehmsten Kayser und Ritter des guldenen Fliesses mit den herrlichsten Städten in der Welt und ihren Trachten oder Habiten. In der andern die Waffen aller gräflichen Familien in Engellandt, derer 20, auch aller vicomter und Freyherren, derer bey 42, die labores Herculis, und das Spiel so man Billard nennet, auf einer langen und mit Wand beschlagenen Taffel. In der dritten das ganze Engellandt in 52 Bäumen abgetheilt, ein jeder Baum bedeutet eine Provinz. Auf den Zweigen und Blättern waren aller Fürsten, Grafen, Ritter und Edelleute Wappen, so in der Provinz gesessen abgemahlet, zwischen den Bäumen waren die Stätte und Flecken nebst den vornehmsten Bergen und Wässern. Das Hauss, welches 40,000 Gulden hatt jährliches Einkommen, ist fast mit einem Lustgarten umgeben, darinnen ein schönes Hauss eingelegen, in welches eine Wasserkunst vor Zeiten bis unter das Dach geleitet war, aber jetziger Zeit unfertig. Unter dem Hause stund ein Tisch von gantzen Probirstein, dreizehn Spannen lang, sieben breit und eine Querhand dick, kostet 500 lb. das lb. zu zwei Engellotten, macht 3000 fl. Eins muss ich alhier nachdenken, welches uns fast seltsam und unglaublich fürkommen, denn wir berichtet worden, dass

palace has five courts ; the last of these was not quite finished. It is no doubt one of the finest houses in England.

It has 20 Einfherung¹ towers, which, like the whole house, are all covered with lead, and we were able to walk round on the top. We were first led into a beautiful room panelled with chestnut wood, and in many places richly gilt. In the windows were placed the coats-of-arms of the principal potentates of the world.

All the other rooms were most magnificently decorated with splendid hangings, and velvet beds and chairs. Especially noteworthy were the three galleries. In the first were representations of the principal emperors and knights of the Golden Fleece, with the most splendid cities in the world and their garments and fashions. In the next, the coats-of-arms of all the noble families of England, 20 in number, also all the viscounts and barons, about 42, the labores Herculis, and the game called billiards, on a long cloth-covered table. In the third, all England, represented by 52 trees, each tree representing one province. On the branches and leaves were pictured the coats-of-arms of all the dukes, earls, knights, and noblemen residing in the county ; and between the trees, the towns and boroughs, together with the principal mountains and rivers.

This house, which has a revenue of 40,000 florins a year, is almost surrounded by a pleasure garden, in which stands a fine edifice with waterworks, which formerly rose as high as the roof, but are at present out of order.

In front of the house stood a table entirely of Lydian stone, thirteen spans in length, seven broad, and one hand-breadth thick, which cost 500 li., at two angelots the li., equal to 3,000 florins.

One thing must be mentioned here which appeared to us very strange and almost incredible, for we were told that some

¹ This word has no meaning, and must be a mistake of the copyist, who perhaps mistook it for 'Einführung,' an unusual term for entry or access. The reading probably should be 'einschliessende Thürme,' meaning 'turreted entrances.'

etliche grosse Hirsche, so in dem Thiergarten erhalten worden, welcher nechst an dem Lustgarten liegt, wohl über 50 deutscher Meilen aus einem grossen Walde nach Thiepoltz sollen getrieben seyn dergestalt, dass etliche Bauren mit Pfeifen und andern instrumentis musicis vorhergangen die Hirsche aber dem Gethöne gerne gefolget haben. Dis Miracul hat uns Meister Leinvert, ein teutscher Schneider der unsrer Nation, herumgeföhret und des Reichs gar gute Gelegenheit weiss, für eine gewisse historia berichten wollen. Stelle aber alles an seinen Ort. ihre fürstliche Gnaden sind von dannen nach Whe gerücket, acht Meilen.

21.—Den 21ten gegen Berg Whe, 12 Meilen, da wir zu Mittag gefuttert und gegen Abend zu Cambrydge im Regenwetter ankommen, 12 Meilen. Diese Stadt, liegt in der Grafschaft, so desselben Nahmen ist, hat eine berühmte hohe Schule und 16 Collegia, alle viereckicht eingebauet, dass ein jedes einem fürstlichen Hause zu vergleichen, doch sollen über tausend studiosi an selbigem Orte nicht gefunden werden. Die Nahmen der Collegiorum sind diese:

1. Erstlich ist die Academia, welche ihrem Bericht nach 375 Jahr vor Christi Geburth von einem Spanier aus Cantabrien gestiftet.

2. Domus S. Petri a° Christi 1280.

3. Aula Claræ, 1326.

4. Aula Mariæ Pembrochiæ sive de Valentia, 1343.

5. Collegium Corporis Christi sive divi Benedicti, 1344.

6. Aula S. Trinitatis Novrincensis, 1347.

7. Collegium Gonevilli et Caij, 1348.

8. Collegium Regale S. Nicolai sanctæque Mariæ, 1441.

9. Collegium Reginale divæ Margarethæ et S. Bernhardi, 1448.

10. Aula S. Catharinæ, 1475.

11. Collegium Jesu et S. Radegundæ, 1502.

12. Collegium Christi, 1505.

big stags in the deer park, close to the pleasure garden, had been brought to Thiepoltz from a large forest, more than fifty German miles off, by some peasants marching before them with flutes and other instrumentis musicis, the stags following the sounds.¹ This marvellous story we heard from Master Leinvert, a German tailor who acts as a guide to persons of our nation, and knows a good deal about the country, and he declared this story to be a fact; but I reserve my opinion. His Serene Highness thence moved towards Whe (? Ware), eight miles off.

21st.—On the 21st, on to Berg Whe (Barkway), 12 miles, where we partook of food at midday, and reached Cambridge in the evening amid rain, 12 miles. This town lies in the county of the same name, has a celebrated high school, and 16 Collegia, all built round quadrangles, and each of them like a lordly mansion. And yet it is said that not above 1,000 studiosi are to be found in the place.

The names of the colleges are these :

1. First, comes the Academia, which, according to report, was founded by a Spaniard, from Cantabria, 375 years B.C.
2. Domus S. Petri a^o Christi, 1280.
3. Aula Claræ, 1326.
4. Aula Mariæ Pembrochiæ sive de Valentia, 1343.
5. Collegium Corporis Christi sive divi Benedicti, 1344.
6. Aula S. Trinitatis Novrincensis, 1347.
7. Collegium Gonevilli et Caij, 1348.
8. Collegium Regale S. Nicolai sanctæque Mariæ, 1441.
9. Collegium Reginale divæ Margarethæ et S. Bernhardi, 1448.
10. Aula S. Catharinæ, 1475.
11. Collegium Jesu et S. Radegundæ, 1502.
12. Collegium Christi, 1505.

¹ This may be compared with a curious story told by Playford in his 'Introduction to Music.' 'When travelling some years since,' he writes, 'I met on the road near Royston a herd of about twenty bucks following a bagpipe and a violin; while the music played they went forward, when it ceased they all stood still, and in this manner they were brought out of Yorkshire into Hampton Court.'

13. Collegium S. Joannis, Evangelistæ, 1508.
14. Collegium S. Mariæ Magdalænæ, 1519.
15. Collegium S. Individuæ Trinitatis, 1546.
16. Collegium Emanuelis, 1584.

Das grösste ist S. Trinitatis Collegium, vor 300 Jahren von Eduardo quarto gestiftet, aber von dieser Königin erst recht verfertigt; darauf 300 Studiosi wohnen können. Nicht weit von dannen liegt S. Joannis Collegium, hat 2 Plätze, beyde viereckigt eingebauet, der letzte war noch nicht vollends fertig, welches eine gräfliche Wittve von Scheerbach gestiftet. Hinter den collegiis fliesst ein liebliches Wasser, darüber viele Brücken gehen, auf einer Wiesen, die mit Bäumen lustig gesetzt, denen Studenten zum Spatzierplatze, welche sich denn auch des lustigen Orths ziemlich gebrauchen und vielleicht mehr Hunde und Winde halten, die man häufig auf den Strassen gesehen, als sie Bücher haben. Ein jedes Collegium hat ein besondere Communität mit silbern Bechern und anderem Geräthe wohl versehen, darinnen die Studiosi, welche keine beneficiarii sind, wöchentlich vor 5 Orthsthaler wohl tractiret werden.

22.—Den 22ten sind wir in die Capelle des Regalis Collegii gegangen, die von Henrico septimo aus künstlich gehauenen Steinen der Westmundischen Kapelle in London gleich erbauet, war 20 Schritt breit 13 Schwibbogen lang, und hat doch keine Pfeiler. In der Bibliotheca ward uns ein grofs Buch gezeigt, fünfe halb Spannen lang und drey Spannen breit, welches der Graf von Essex als Patronus dieser Academie in Cales Males überkommen und in diese Liberey gegeben hatte. Continebat Psalmos feriæ secundæ Paschatis. Die Academia an sich wie auch die lectoria publica auf alter Arth gar schlecht erbauet, gegenüber liegt eine Kirche, darinnen die publici actus promotionum gehalten. Mit denen prælectionibus publicis in academia ist es folgender massen beschaffen: man lieset nur zu gewissen Zeiten im Jahr, welche man terminos nennet. In Cantabriensi academia sind 3 termini, in Oxoniensi 4, der erste hebet an von dem

13. Collegium S. Joannis Evangelistæ, 1508.
14. Collegium S. Mariæ Magdalenæ, 1519.
15. Collegium S. Individuæ Trinitatis, 1546.
16. Collegium Emanuelis, 1584.

The largest is S. Trinitatis Collegium, founded 300 years ago by Eduardo quarto (*sic*), but only now completed by the present Queen; 300 studiosi can reside there. Not far from it stands the S. Joannis Collegium, which has 2 court-yards,¹ both square in shape; one of these, founded by a widowed Countess of Scheerbach (?), was not quite finished.

Behind the colleges flows a lovely river, with many bridges leading to a meadow pleasantly laid out with trees as a promenade for the students, who make pretty good use of the cheerful place, and perhaps keep more dogs and greyhounds, that are so often seen in the streets, than they do books. Every college has its own commons, with silver cups and other things well furnished, and those students who are not beneficiarii may get their food here for 5 ortsthalers a week.

22nd.—On the 22nd we visited the Chapel of the Regalis Collegii, built by Henrico septimo in artistically carved stonework like the Westmund (Westminster) Chapel in London.

The Chapel is 20 paces broad, 13 arches long, and yet without pillars. In the bibliotheca a large book was shown to us four spans and a half long and three broad, which the Earl of Essex, as patronus of this Academia, had acquired in Cales Males, and presented to this library. Continebat Psalmos feriæ secundæ Paschatis. The Academia as well as the lectoria publica are badly built in an old-fashioned style; opposite stands a church, in which the public actus promotionum are held. The public lectures in the Academia are arranged in the following way:

The lectures are delivered only at certain times of the year, called terminos. In Cantabriensa academia are 3 termini, in Oxoniensi 4; the first begins on October 10, and

¹ Quadrangles.

10 Tage Octobris und endiget sich den 15 Decembris; der andere terminus hebet an vom 13 Januarii, finitur decem diebus ante festum Paschatis; tertius initium sumit a decimo post Pascha die, finem sortitur die Jovis post festum divi Petri. Reliquo tempore feriantur ab operis publicis. In terminis habentur singulis mensibus duæ disputationes publice in singulis facultatibus. Oxoniensis habet tempora mutata nonnihil. Die Stipendia publica sind nicht gar hoch. Der fürnehmste professor theologiæ wie auch jurisprudentiæ und medicinæ bekommen 40 lb. English, macht etwa 240 fl.; der andre, so nach ihm ist, 120 fl.; die professores matheseos, rhetoriæ et physicæ nur 4 minos 24 fl.; aber alhier ist zu wissen dass diese professores alle collegiati sind und zuweilen in unterschiedlichen collegiis grosse ansehnliche Hebungen und beneficia haben, dass sie ohne einige weitere Zuthat gar stattlich auskommen mögen. In Engelland kann Niemand promoviren er habe denn eine gewisse Zeit in academia compliret, und muß eine 6 Jahr continue in einem collegio haben, ehe er zum baccalaureat zugestattet, folgendes noch 4 Jahr, ehe man ihn zum magister creiret, und dann noch 4 Jahr, so kann er baccalaureus facultatis werden. Endlich seind ihm noch 5 Jahr abzuwarten, ehe er in theologia gradum doctoris annehmen mag, muss also 19 Jahr auf der academia zubringen. In jurisprudentia aber wie auch in medicina kann er innerhalb 12 Jahren davon kommen.

Als nun ihre fürstliche Gnaden wiederum von dannen geritten, haben sie für der Stadt liegen sehen das Castel von Chambry, welches von den Dännemarkern erbauet, darauf noch jetzo die vornehmsten Gefangenen in der Grafschaft gehalten worden, aber von Eduardo quarto ist zerstöret worden, welcher keinen festen Ort im Lande hat leiden oder erdulden wollen, denn weil er vermerkt, dass dieses Volk zum Aufruhr sehr geneiget oder schwerlich zu stillen, wenn die Partheien solche feste Plätze eingenommen, hat er erstlich seine eigene Häuser, so feste, eingerissen, und hernach allen Städten die Mauren abzuwerfen befohlen, mit dem Vorgeben, es hätten sich

finishes on December 15; the next terminus begins on January 13, *finitur decem diebus ante festum Paschatis*; tertius initium sumit a decimo post Pascha die, finem sortitur die Jovis post festum divi Petri. Reliquo tempore seriantur ab operis publicis. In terminis habentur singulis mensibus duae disputationes publice in singulis facultatibus. Oxoniensis habet tempora mutata nonnihil.

The stipendia publica are not at all high. The principal professor theologiæ, and those of juris prudentiæ et medicinæ, receives 40*l.* English, equal to about 240 florins; the next to him 120 florins; the professores matheseos, rhetoriæ et physiciæ only 4 minos, 24 florins; but it must be stated that all these professores are collegiati, and sometimes enjoy considerable revenues and beneficia in various collegiis, and that they may thus have a pretty good income without any further addition.

In England nobody can take a degree without having spent a fixed time in academia; he must have been member of a college for 6 years continuously, before he is admitted to the baccalaureate; after that other 4 years must be spent in study before he is created magister, and again 4 years are requisite before he can attain the dignity of a baccalaureus facultatis. And again he has to wait 5 years before he can take his gradum doctoris in theologia; hence he has to spend altogether 19 years at the Academia.

In jurisprudentia, however, as well as in medicina, he can get off in about 12 years.

On riding away from here his Serene Highness visited, outside of the town, the castle of Chambry, which was erected by the Danes, and in which even now the principal prisoners of the county are kept.

It was destroyed by Eduardo quarto, who would not allow or tolerate any strongholds in the country, because he found the people inclined to revolt and difficult to control while the parties possessed such fortified places. He began by destroying his own fortresses, and ordered the ramparts in every town to be pulled down, under the pretext that his

also die Unterthanen keiner Gewalt vor ihren König zu befürchten, da es ihm vielmehr darum zu thun, dass er sich vor die Unterthanen nicht fürchten wolle. Also findet man in gantz Engelland keine Vestung ausgenommen in etlichen Port und Hafen, da man sich des Feindes Einfalls befürchten muss.

Sonsten seyn die littora in Engelland so hoch, dass sie schwerlich erstiegen werden mögen. Gegen gemeldetem Castel über ward uns der Platz Pythagoræ gezeigt, alda ihrem Fabuliren nach der gelehrte Mann vor Zeiten seine Behausung aufgeschlagen. 10 Meilen von Cambrie liegt die Insul Stein, in welcher ein schönes Münster und Kloster darinnen die Jesuiter und andre catolische Herren und Edelleute stattlich at vitam unterhalten werden, damit sie nur im Lande keine Unruhe anrichten; müssen auch bei Halses Strafe aus der Insel nicht weichen. Dieses Tages sind wir noch zu Bettport ankommen. 20 Meilen, hat eine steinerne Brücke über die Use.

Unterwegens haben wir viele Schafe angetroffen, wie es da ein schönes Fleisch in Engelland hat, als nirgendwo zu finden, wird auch sehr wohl und rendlich gekochet und gebraten, dass es fast weiss bleibet. An diesem Orthe gab es auch ein gut gedoppeltes Englisches Bier.

23.—Den 23ten bis Bicester, 23 Meilen, Der Herr Hochmeister Joachim Tribsees und Fridericus Gerscho seyn wohl in die 6 Meilen in die Irre geritten, weil der Postilion den Weg selbst nicht gewust, und muss alhier rühmen die Freundlichkeit der Engelländer, denn als uns ein Gentillman von weitem gesehen und leicht vermerket, dass wir Fremde wären und die rechte Strasse nicht hielten, ist er uns entgegen geritten und auf Latein, wo wir hinaus wollten, gefragt, endlich sein Weib und Frauenzimmer allein gelassen und uns wieder in den rechten Weg gebracht. Als wir nun in eine Herberge gekommen und aus Mangel eines Dolmetschers weder Essen noch Trinken haben können, hat Friedrich Gerscho einen gelehrten Pastor im Dorf angetroffen, der uns

subjects need not fear any violence from their king, while his real motive was that he did not choose to stand in fear of his subjects.

This is the reason why no fortified places are met with in all England, except in some ports and harbours, where invasion by an enemy might be expected.

Otherwise, the littora of England are so high, that it would be difficult to climb them. Opposite the said castle they showed us the place of Pythagoras, where, as the tale goes, the learned man in bygone days had his dwelling.

Ten miles from Cambrie is the island of Stonea, upon which is a fine cathedral and monastery, where the Jesuits and other Roman Catholic noblemen and gentlemen are comfortably provided for ad vitam, with the object of preventing them causing any [political] disturbance in the country. They are forbidden to leave the island on pain of death. This same day we reached Bettport (Bedford), 20 miles; it has a stone bridge over the Use (Ouse). On our way we saw many sheep, and indeed there is very good meat in England, better than anywhere else, and it is very properly cooked and roasted, being kept almost white. In this place we also got a very good English double beer.

23rd.—On the 23rd as far as Bicester, 23 miles. Mr. Joachim Tribsees, the Duke's governor [steward],¹ and Fredericus Gerscho rode about 6 miles out of their way, for our postilion did not know the road himself, and I must at this opportunity praise the kindly spirit of the English, for a gentleman noticing us from afar, and easily recognising us to be foreigners who had got off the right road, rode up to us, and asked in Latin where we wished to go to, and left his wife and ladies to show us the right way.

When, at last, we reached an inn, we could not, for want of an interpreter, get anything to eat or to drink, until Frederik Gerscho found a learned parson in the village, who

¹ The manuscript has 'Hochmeister,' which was the title given to the highest dignitary of the Order of S. John; it is more likely that the original had 'Hofmeister,' i.e. governor as well as steward.

alle Nothdurfft geschaffet, auch auf den Abend, als er seine eigene Gäste, die er eingeladen, eine Zeit lang verlassen, mit dem Wirthe gar genau Rechnung zugelegt und uns also viele Ehr und Freundschaft erzeiget hat. Diesen Tag wollten wir nicht der Lateinischen Sprache um einen Thaler entbehret haben.

24.—Den 24ten als wir zu Oxfort gegen Mittag angelanget, 10 Meilen, war ein böser sumpfiger Weg, haben wir alsofort zum supremo bibliothecario, magistro Thoma Gameth geschicket, der uns in die Collegia academiae Oxoniensis, derer 16 herumgeführt, auch die acht aulas gezeigt, in welchen ein jeder für seinen Pfennig zehret und irgends 5 Orthsthaler die Woche von dem Tisch giebet. In denen collegiis aber werden die Stipendiaten communi sumptu unterhalten. Nomina collegiorum hæc sunt :

1. Collegium universitatis gestiftet anno 872, vom Könige Alvredo oder Altfredo.
2. Bailionense, anno 1262.
3. Mertonense, anno 1274.
4. Exoniense, anno 1316.
5. Oriolense, vel beatæ virginis, 1323.
6. Reginense, anno 1340.
7. Novum, ist von Gvilhelmo Wiccam, dem Reichscancellerio, anno 1375 gestiftet, darin werden 130 socii unterhalten, hat 18000 Gulden jährliches Einkommen.

8. Lincolniense, anno 1420.
9. Omnium animarum, anno 1437.
10. Mariæ Magdalænæ, anno 1459.

11. Aenei vel ignei nasi, 1523 ist von einem berühmten nigromantico gestiftet, so Wilhelm Scheid genandt und ein Bischof gewesen ist ; hat durch seine grosse Kunst zuwege gebracht, dass die Nase, so noch an der Pforte des collegii geheftet, hat reden und Feuer von sich werfen können.

procured everything we wanted, and even, for a short time, left some of his own guests whom he had invited on that evening to settle accounts with the landlord, and thus showed us great honour and kindness. That day I would not have missed knowing Latin for a thaler.¹

24th.—On the 24th, when we reached Oxford about mid-day, 10 miles, the road being very bad and marshy, we sent at once for the supremo bibliothecario, Mr. Thomas Gameth (? James), who showed us over the Collegia academiæ Oxoniensis, 16 in number. He also showed us the 8 aulas where every [student] may procure his meals for his own money, and pays about 5 orthsthaler a week for his board. In the colleges the stipendiata live communi sumptu.

Nomina collegionum hæc sunt :

1. Collegium universitatis, founded anno 872 by King Alfredus or Altfredus.

2. Bailionense, anno 1262.

3. Mertonense, anno 1274.

4. Exoniense, anno 1316.

5. Oriolense, vel beatæ virginis, 1323.

6. Reginense, anno 1340.

7. Novum, founded by Gvilhelmo Wiccam (Wykeham), Chancellor, anno 1375. There are 130 socii provided for here ; it has a yearly income of 18,000 florins.

8. Lincolniense, anno 1420.

9. Omnium Animarum, anno 1437.

10. Mariæ Magdalænæ, anno 1459.

11. Aenei vel ignei nasi, 1523 (*sic*), founded by a celebrated nigromantico named William Scheid (Smith), who had been a bishop.

By his great art he caused the nose, which is even now attached to the college gate, to speak and to spit fire.²

¹ Three shillings.

² The author seems to have introduced here the legend of Friar Bacon's artificial head.

12. Corporis Christi 1516.

13. Aedium Christi, welches auch Regale oder Cardinale genannt wird, weil es Thomas Wolserius, ein Cardinal, erbauet anno 1546.

14. Sanctæ Trinitatis, anno 1556.

15. Divi Joannis præcursoris, anno 1557 a prætore Lugdonensi, prope ædes Casonis.

16. Collegium Jesu, welches anno 1572, angefangen aber noch nicht vollenzogen ist. In einem collegio, weiss nicht eigentlich welchem, haben wir über das Engelländische Wappen folgende Versche gelesen :

Rex sum regnorum bina ratione duorum,
Anglorum rex sum ego jure paterno, matris
Jure quidem Francorum nuncupor idem
Hinc est armorum variatis facta meorum.

Aber zu Nimiss in Frankreich ist uns auf diese Versche eine responsio regis Galliæ gezeiget worden, die also lautet :

Praedo regnorum qui diceris esse duorum,
Francorum regno privaberis atque paterno,
Mater ubi nullum jus, proles non habet ullum.
Hinc est armorum variatio stulta tuorum.

Als nun ihre fürstliche Gnaden auf dem regali collegio ein wenig verharret, hat sich ein Professor nebst einem Pedellen der einen silbernen Scepter getragen, ihrer fürstlichen Gnaden präsentiret und dieselbe auf Latein willkommen geheissen, auch dem bibliothecario befohlen, dass er alle Gelegenheit ihren fürstlichen Gnaden zeigen solle. Das auditorium publicum ist ein schön Gebäude von Quadratstücken, wie denn fast alle collegia in Oxfort ex vivo lapide mit ungläublichen Unkosten erbauet sind, alldieweil kein sonderlicher Steinbruch im ganzen Reiche ist. Auf dem obersten Saal war eine instructissima bibliotheca von allerlei Sprachen und Schriften, so in der Welt zu finden. Diese Universität

12. Corporis Christi, 1516.
13. Aedium Christi, also called Regale or Cardinale, having been built by Thomas Wolserius, a cardinal, in the year 1546.
14. Sanctae Trinitatis, anno 1556.
15. Divi Joannis præcursoris, anno 1557, a prætore Lugdonensi, prope ædes Casonis.
16. Collegium Jesu, begun 1572, but not yet finished.

In one collegio, I do not know in which, we read the following verse concerning the English arms :

Rex sum regnorum bina ratione duorum,
Anglorum rex sum ego jure paterno, matris
Jure quidem Francorum nuncupor idem
Hinc est armorum variatis facta meorum.

But at Nimiss (Nismes),¹ in France, a responsio regis Galliæ upon these lines was shown to us, which ran thus :

Prædo regnorum qui diceris esse duorum,
Francorum regno privaberis atque paterno,
Mater ubi nullum jus, proles non habet ullum.
Hinc est armorum variatio stulta tuorum.

As his princely Grace remained in the Collegio Regali for some little time, a professor presented himself, accompanied by a beadle, bearing a silver sceptre, and bade his Highness welcome.

The bibliothecario also was ordered to show everything to his Grace.

The auditorium publicum is a fine building of square stones, and in fact all the colleges in Oxford are built ex vivo lapide at an incredible expense, there being no good quarry in the whole kingdom.

In the upper hall there was an instructissima bibliotheca in all the various languages and manuscripts to be found in the whole world.

¹ The travellers reached Nimes on February 8, 1603, but the Diary makes no mention of any inscription of that kind there.

hat viel herrliche privilegia, also auch, dass der königliche gubernator selbst dem procancellario, welcher anstatt eines rectoris, jährlich einen neuen Eid schwören muss. Diesem procancellario werden 6 Scepter fürgetragen, drey verguldete von den pedellibus nobilibus, und drey silberne von den plebejis. Auf den Mittag sein ihre fürstliche Gnaden nach Woodstock, anderthalb Meilen, geritten, von Henrico secundo erbauet, der die Leonoram Ludovici undecimi repudiatam conjugem viel Jahr heimlich auf dem Hause gehalten hat, wie denn noch ihr Bette, von Werkstücken gepflastert, allda zu sehen. Die Königin Elisebeth ist allhier von ihrer Schwester, Königs Philippi aus Spanien Gemahlin, gefänglich gehalten und ihr nur drey Logiamenter eingethan worden, daraus sie nicht kommen mögen, auch fast keinen zu ihr gelassen. Unter der Schlafkammer ist zu drey mahlen ein so grosser Rauch entstanden, dass sie anders nicht vermeinet als man werde sie ersticken wollen, derothalben sich denn die gute Königin zum Tode geschicket und viel Dinges mit eigenen Händen zur Nachricht geschrieben. Der Sommer-Saal in diesem palatio war mit Irländischem Holze getäfelt, die Kirche wie man vermeinet, von Juden vor vielen Jahren erbauet. Die rechte area giebt einen sehr starken Wiederschall. Im Lustgarten sollen bey fünfzehntausend Stück Dammwild sein, und hat der Amtmann seinen Pastoren nebst einer Adelsperson an ihre fürstliche Gnaden, wie sie nun auf Rückreise gewesen, abgefertiget mit unterthäniger Bitte, weil er vernommen, was ihre fürstliche Gnaden für eine Person, als möchten sie ihm den gnädigen Gefallen bezeigen, wieder umkehren, und der Jagd, so er morgendes Tages anstellen würde, bewohnen. Aber ihre fürstliche Gnaden haben es ihm höflich abschlagen lassen.

Es legen die Engelländer sehr viel auf die Jagd, dass man nicht leicht ein Königshaus, ja nicht wohl eines Edelmanns Sitz antreffen soll, dabei nicht zum wenigsten ein Thiergarten, zuweilen wohl zwey oder drey zu finden, zwischen welchen ein feiner ebener Platz gelassen wird, dass man dem Wild, weil kein ander hohes Wild vorhanden, folgen und mit der

This university has many precious privilegia—for instance, that even the royal governor is obliged to swear the oath anew every year to the procancellario, who acts as rector.

Six sceptres are borne before the procancellario, three golden by the pedellibus nobilibus, and three silver ones by the plebejis.

At midday his princely Grace rode to Woodstock, one mile and a half distant, built by Henrico secundo, who kept Leonoram Ludovici undecimi (*sic*) [of France] repudiatam conjugem in this house secretly for many years.

Her bedstead, made of freestone, is still to be seen there.

Queen Elizabeth was kept a prisoner here by her sister, wife of King Philip of Spain; only three rooms were allotted to her, which she was not allowed to leave, and scarcely any-body was permitted to visit her.

On three occasions a quantity of smoke rose from under her bedchamber, and she could not but believe that they were going to smother her. The good Queen therefore prepared for death, and wrote out, in her own handwriting, many things by way of information.

The summer-hall in this palatio is panelled with Irish wood; the church is said to have been built by the Jews many years ago. The area to the right gives a loud echo.

The pleasure garden is said to contain about 15,000 head of dappled deer.

When his Highness was on his way back the Governor sent his chaplain and a nobleman after him, respectfully requesting that his Highness, whose rank he had just learned, would do him the honour to return and to attend the hunt that was to take place the following day. His Highness, however, politely declined.

The English hold the chase in high esteem; there is scarcely any royal residence, or even a nobleman's house, which has not at least one deer park—sometimes two, or even three, may be found.

Good level ground is left between them for following the

Gewalt-Jagd verwunden kann. Wenn einer fremde Hunde in seinem Thiergarten findet, hnget er sie alsbald dem Jger zum Schimpf auf, wenn sie noch einmal so gut, gleichfalls auch das Wildpret, welches von fremden Schtzen geschossen ist; den sie stets vermeinen, dass die Pfeile deren sie sich noch hufig gebrauchen, verlipped oder vergiftet gewesen sein. Es werden aber die Jagden gemeiniglich dem Frauenzimmer zu Ehren angestellt, alsbald nun ein Hirsch oder Stck Wild gefllet, muss die Jungfer mit dem Weidmesser am Vorbog einen Schnitt thun darnach bergiebt sie es dem Jger zu wirken. Die Hasenjagd ist sehr hufig und lustig in Engelland, dieweil es viel Gebsch und Strauchwerk hat, werden aber selten mit Hunden gehetzt, sondern nur von den Jagdhunden verfolgt, so lange dass sie vermden oder beliegen bleiben, und soll der Jger zum ftern den Hasen, welchem er seiner Lust nach den ganzen Jag gefolget, endlich seinen Hunden zum besten geben und lieber ein Caninchen dafr nehmen. Sintemahl sie des Wildprets nicht gross achten, sondern vielmehr der Lust, wenn es gleich ein Bauersmann wre, denen auch die Jagd erlaubet, welche auch gar schne grosse Hunde halten, wiewohl mit schlechten Unkosten, aldiweil sie die Kpfe, Eingweide und Fsse von Lmmern und Klbern, die sonst in ganz Engelland, ausgenommen die Zunge, weggeworfen, um gar ein geringes Geld an sich bringen mgen. Auf den Abend hat der procancellarius eine lateinische epistolam cum hac inscriptione: 'Illustri hospite ignoto' ihrer frstlichen Gnaden ber Tafel per pedellum nobilem nebst ein paar schner mit Golde recamerirter Handschuhe und einer Kanne gutes Weines berreichen lassen. Alhier wurden wir berichtet, dass 10 Meilen von Oxford gelegen wre ein kleines Stdtlein mit Namen Theme, vor welchem vorbeyst fleusst der

deer, and wounding them in the driven chase,¹ there being no other large game.

If a man finds strange dogs in his deer park, he hangs them, however valuable they may be, as an insult to the huntsman.²

This is also done with game killed by strange huntsmen, it being believed that the arrows, still frequently used, are poisoned.³

The hunting parties are, however, generally arranged in honour of the ladies. As soon as a stag or other animal is killed, the lady is expected to give it the first cut with the hunting knife on the shoulder, the rest of the work being left to the huntsman.

Coursing of hares is practised very often in England, and affords great sport, and as there is coppice and thickets in plenty, they are rarely baited by dogs, but only followed by them until they get fatigued or fall down. We were told that, after having followed a hare for pleasure's sake during a whole day, the hunter would often leave the animal to his dogs, taking a rabbit instead.

The reason is, that the game is less thought of than the amusement. This is the case even with the peasants, who also are permitted to hunt; they keep fine big dogs, at little expense, for with a little money they can procure the heads, entrails, and feet of lambs and calves, which in England are always thrown away, with the exception of the tongue.

In the evening, whilst we were at table, the procancelarius presented his Highness per pedellum nobilem with a Latin epistolam cum hac inscriptione: 'Illustri hospite ignoto,' together with a beautiful pair of gloves, embossed in gold, and a tankard of good wine. We were told here, that ten miles from Oxford was a little town named Theme (Thame), past which flowed the river Eisis (Isis); but on reaching this

¹ *Par force* (French).

² Probably signifying 'as a warning.'

³ Verlipped is either a mistake of the copyist or a word which has been lost, and therefore omitted in the translation.

Strom Eisis : wenn er nun in die Stadt kommt, wird er genannt Themesis, ist der berühmte Fluss in ganz Engellandt.

25.—Den 25ten sein ihre fürstliche Gnaden in der Frühe aus Oxfort verrücket nach Harli an der Themis, 18 Meilen und weiter nach Winsor oder Winstor, 12 Meilen, an welchem Orte ein sehr staltliches königliches Hauss und schöne grosse Kirche ist, darinnen man die Ritter macht charterier Ordens oder des guldenen Hosenbandes, derer Fahnen und Wapen, wenn sie verstorben, oben abgenommen und ein kleines von Silber wieder an die vorige Stelle gesetzt wird. Das Gewölbe in dieser Kirchen war von Künstlern aus gehauenen Steinen wie eine Rose formiret. In der mittelsten Rose stunden die Wapen der allerältesten Ritter ; an der einen Seiten des Chors ist ein köstliches eisernes Gitter, der Bogen darin von einem ganzen Probirstein geschlossen. König Henrici octavi Begräbniss war auch noch nicht vollens fertig, kommt mitten ins Chor zu stehen. Das rechte monumentum war von guten Probirsteine, die emblemata von Messing und Klockenspeise, ein so grosses Werk, dass man es weniger als mit 40 Karren nicht wegfahren solte.

Die Königinne hat es derohalben nicht ganz verfertigen wollen, damit es zugleich ihr zum Gedächtniss könnte nachgesetzt werden. Um diese Kirche wohnen 13 arme Ritter, welche jährlich 40lb. einzukommen, und für einen jeden Ritter aureæ perisceledis, also offte er eine Weile von Winsor ist, eine gute Verehrung zu empfangen haben. Das Schloss ist weit und gross, mit drey oder wohl mehr Plätzen, nicht zwar hoch aber ganz von Quadratstücken gebauet. Im untersten Platze stehet die jetzt beschriebene grosse Kirche, dergleichen nirgends zu finden. Gesehen S. Gregorii Kammer mit Irländischem Holtze getafelt. Die Königliche Capelle gantz überguldet.

town it is called Themesis, and is the most celebrated river in all England.

25th.—On the 25th his princely Grace moved from Oxford early in the morning towards Harli (? Hurley) on the Themis, 18 miles, and further on to Winsor, or Winstor, 12 miles, at which place there is a very stately Royal residence, with a beautiful and large church where the Knights of the Order Charterier, or Golden Garter, are created. When they die, their banners and coats of arms are taken down, and a small silver [shield] put in the place.

The vaulted roof in this church was of hewn stone, worked by artists in the shape of a rose.

In the central rose were placed the coats of arms of the very oldest knights; on the one side of the choir is a costly iron railing, the arch of which is closed by a single piece of touchstone [Lydian-stone?].¹

The sepulchre of King Henricus octavus was not quite finished; it is to stand in the centre of the choir. The monument itself was of good Lydian stone, the emblemata of brass and bell-metal, a work so large that it would take not less than 40 carts to remove it.

The Queen did not have it finished, in order that it might serve for her memorial as well.

Round about this church dwell 13 poor knights, with an income of 40 li² a year; and every knight aureæ perisceledis, when leaving Windsor for a while, receives a good honorarium.

The castle is extensive and large, with three, or perhaps more, courts, [the walls] not very high, but built entirely of square blocks.

In the lowest court stands the large church just described, the like of which is nowhere to be found. We saw the S. Gregorii chamber, panelled with Irish wood. The royal chapel entirely gilt.

¹ It is difficult to understand the real meaning of this passage, but it is likely that it refers to one stone forming the arc of the arch.

² It is doubtful whether by this term is meant English money; no German coin ever bore the name of pfund or lb.

Auf diesem Hause sind zwey Könige aus Frankreich und Schottland zu einer Zeit auf 2 unterschiedliche Logiamenter, die grade übereinander, gefänglich gehalten worden. Es wurden uns viele grosse überguldete Bettstellen und viel herrliche Tapezerei gezeigt. Henrici octavi Bette war elftehalb Fuss breit, daran köstliche Gardinen, welche Anna Bolonia, der Königin Elisabethæ Mutter mit ihrem Frauenzimmer von Golde und Silber mit der Nadel künstlich gesticket. Ein Himmel von Golde gewirket und mit grossen Perlen versetzt war König Henrico octavo von einem Edelmann verehret. Noch ein alter aber schöner Himmel von Golde und Seide vor 800 Jahr tempore Ludovici sancti gemacht, ein Küssen von Königin Elisabeth aus Gold und allerley Sorten Seide künstlich gestickt, auch ist noch das Bette vorhanden, darinnen die rothe und weisse Rosen nach langwierigen vielen Kriegen durch eine freundliche Heyrath vereinigt worden. Endlich gingen wir auf die Vestung, Winchester Thurm genannt, weil sie gleich dem Thurm, so zu Winchester stehet, gebauet ist; zwar eine schlechte Vestung, könnte nicht gross Wunder schaffen, liegt auf einem ziemlich hohen Walle, den gleichwohl ein gerüsteter Reuter mit seinem Pferde angelaufen und den Spiess an der Mauer gebrochen hat. Vor der Stadt ist ein schön gebauetes Collegium, auch vom Cardinal Wulsey gestiftet, darinnen grosser Herren Kinder erzogen werden.

25.—Den 26ten seyn ihre fürstliche Gnaden zu Oeteland angelanget, darinnen die gemeine Hoffleute, weil nicht Logirung genug vorhanden, ihre Zelte einem Feldlager gleich aufgeschlagen; war ein lustiges Jagdhaus, die Königinne liess uns durch ihren Fourir in den Garten, so nächst an dem palatio gelegen, führen, und sein ihre königliche Majestät, die damalen so frey hereingetreten, als ob sie irgend 18 Jahr alt gewesen, zu unterschiedlichen mahlen uns sämbtlich vorbey gegangen, stets die mascaram abgethan und vor Ihrer fürstlichen Gnaden wiewohl sich dieselbe nicht kund geben wollen und fast unten an gestanden, stets tief geneiget, auch zu verstehen geben, es ihrer Majestät nicht widerlich sein würde,

In this mansion two kings, of France and of Scotland, were kept prisoners at the same time in two different apartments, one just above the other.

Many large gilded bedsteads and much costly tapestry was shown to us. The bed of Henricus octavus was 10 feet and a half broad, with costly curtains, embroidered artistically in gold and silver needle-work by Anna Bolonia (Bullen), Queen Elizabeth's mother, and her ladies.

A tester, wrought in gold and set with large pearls, had been presented to King Henricus octavus by a nobleman.

Another old, but very fine, tester, wrought in silk and gold, 800 years ago, from the time of Ludovicus sanctus; a cushion artistically embroidered by Queen Elizabeth in gold and all sorts of silk.

There is also the bed still extant, in which the red and white roses, after many long wars, were united by a friendly marriage.

Lastly we went to the fortress called Wincester Tower, because it is built like the tower at Wincester. It is, however, a poor fortress, that could not accomplish great wonders; it stands on a tolerably high rampart, towards which a knight in armour ran with his horse, breaking his lance against the wall. Outside of the town is a beautifully built Collegium, founded also by Cardinal Wulsey, where the children of gentlemen of high standing are educated.

26th.—On the 26th his princely Grace arrived at Oeteland (Oatlands), where the common servants of the court had set up their tents like a military camp, there not being enough lodgings. It was a cheerful hunting-box. The Queen gave orders to lead us by her fourier to the garden close to the palace, and her Royal Majesty passed us several times, walking as freely as if she had been only eighteen years old, always taking off her mascara and bowing deeply to his princely Grace, who, however, not willing to make himself known, stood almost behind.

Her Majesty also gave him to understand that she would like to see his princely Grace, according to the English fashion,

wenn ihre fürstliche Gnaden Landesgebrauch nach ihr die Hände küssen wollen, dessen gleichwohl ihre fürstliche Gnaden aus allerhand erheblichen Ursachen gar höflich sich bedanket. Endlich liess die Königin zu Anzeigung ihrer Majestät etliche vornehme Herren und Rätthe vor sich bescheiden, die gar stattlich angethan und so lange die Königin mit ihnen redet, auf den Knien sitzen müssen. Inmittelst entblöste sich die Königin bis an die Brüste und liess ihre schneeweisse Haut sehen. Zwar so man nach Conterfey judiciren soll, wie ihre Majestät im 30sten iahr ihres Alters abgemahlet, kan zu der Zeit nicht viel schöner Weibsbilder gelebet haben, war auch noch in diesem hohen Alter von ferne nicht hässlich anzusehen. Aus dem Garten gingen wir in die präsent Kammer, sahen die vornehmsten Herren und die wohlgeputzte Frauenzimmer, meistentheils mit Silberzeug gekleidet, auch die Ceremonien welche bei der Tafel ge-[p]flogen werden, darauf die Essen von den Trabanten, so schöne grosse Kerdel sein, gesetzt.

Unter Mahlzeit erlangten J. f. G. licentiam, die armadam, zu sehen, Hunde und Pferde aus dem Lande nach eigenem Willen zu führen. Auch war ein Kriegsschiff ihre fürstliche Gnaden zu begleiten verordnet. Sind also des Tages noch auf Hampte-curt gereiset, 3 Meilen, ist das vornehmste königliche Haus in ganz Engellandt, hat viele Plätze alle viereckigt eingebauet, derer wir nur 6 gesehen. Der erste Fundator dieses Schlosses ist gewesen obgedachter Cardinal Wolsey, welcher die allerstattlichsten Gebäude, so die Königin in Engellandt hat, verfertiget. Erstlich kamen wir in einen grossen Saal mit irländischem Holtze, davon sie hoch und viel halten, gewölbet, die Boden oder Decken waren in allen Logiamentern verguldet, doch hatte ein jedes Gemach sein besonder Muster. Der Zierrath besteht ganz in Tapezereien, die so köstlich von gutem gedreyeten Golde und bester Seide, dass sie in solcher Menge, wie sie an dem Orte häufig vorhanden, nicht leichtlich mögen aestimiret werden, und sein gemeinlich die schlechte leinene vor die besten gehenget. In der Königin Cabinet stunde ein Virginal oder Instrument von Glas, so künstlich ausgearbeitet, als ob es mit Perlen und Edelsteinen

kiss her hands, which, however, his Grace, for various weighty reasons, politely declined to do.

At last the Queen, to show her royal rank, ordered some of the noble lords and counsellors to approach, and they, in their stately dress, were obliged to remain on their knees all the time the Queen addressed them.

Meanwhile, the Queen uncovered herself down to the breasts, showing her snow-white skin.

To judge from portraits showing her Majesty in her thirtieth year, there cannot have lived many finer women at the time ; even in her old age she did not look ugly, when seen from a distance.

From the garden we went to the presentation chamber, saw the most elegant gentlemen and well-dressed ladies ; most of them in silver cloth ; also the ceremonies at table, and the dishes brought in by the halberdiers, who are fine big fellows.

During dinner his princely Grace received licentiam to see the armadam, and to take horses and dogs out of the country according to his wish. A man-of-war too was ordered to convoy his princely Grace. We travelled to-day as far as Hampte Curt (Hampton Court), three miles, the principal royal residence in all England ; has many courts, all quadrangular ; we saw only six of them.

The first founder of this castle was Cardinal Wolsey, mentioned above, who built all of the most stately palaces now possessed by the Queen in England.

At first we came to a large hall, vaulted with Irish wood, which is much esteemed ; the floors or ceilings in all (the) lodgments were gilt, but each room had its own special pattern. The decorations consisted entirely of tapestries, exquisitely wrought in good gold-thread and best silk, that not easily will such be found anywhere in such quantities as in this place ; the common linen ones are generally hung over those of higher value. In the Queen's cabinet stood a virginal, or instrument of glass, artistically made [it looked] as if it were set with pearls and precious stones ; also a beautiful bed-

versetzt wäre, item eine schöne Bettengardine, so Anna Bolonia mit eigenen Händen aus Golde genchet, item ein hohes grosses Bette, welches Henricus octavus mit sich ins Feldlager geführt, daran alles mit Golde gesticket. Noch ein grosses Bette, darinnen Eduardus Sextus aus Mutterleibe lebendig geschnitten. Weiter führete man uns in einen grossen weiten Saal voll Gemählde, die alle vor Kunststücke geachtet werden. In der nächsten Gallerie stund eine ziemliche grosse Tafel, darinnen die biblischen Historien aus einer Perlenmutter geschnitten; item ein Spiegel von Marmor, so man in Engellandt gebrochen, auch waren die Leute aus Cataja mit ihrem Habit abgemahlet. Im andern Saal stunden die Conterfey der drey Churfürsten, welche Henrico octavo das Kaiserthum angetragen. Die Kammer nächst daran war mit türkischer Tapezerey, die andere mit gutem Sammet, und die folgende mit köstlichem Scharlack beschlagen, als nun die Wände bekleidet, so war auch der Thron, das Bette und die Stühle. Endlich erreichten wir die Paradieskammer, das herrlichste und prächtigste Gemach in dem ganzen Hause und vielleicht auch in dem ganzen Reiche. Die Tapezerei war von persianischer Arbeit, auf dem Tische, der 28 Fuss lang, lag eine Sammetdecke bis auf die Erde, mit Perlen so den grossen Erbsen gleich, gar stark besetzt. Der Thron war von braunem Sammt aufs allerstattlichste mit Golde gesticket, mit Perlen und köstlichen Edelsteinen besetzt, insonderheit leuchteten über die andern drei grosse Diamanten, welche ein mächtiges Geld werth, ein Tisch von Braunsilientholtz mit Silber eingelegt, darauf lag ein Küssen mit einem Spiegel, darein viele Turkosen, ein Brettspiel von Ebenholtz, ein Schachspiel von Elfenbein, und dann auf einem kleinen Tisch sieben elfenbeinerne Pfeifen mit Golde beschlagen.

Letzlich wurden uns gezeigt zwo Kammern die voll Tapezerey lagen in ungläublicher Anzahl, darunter viele indianische Decken gar behende und säuberlich mit Seide gesticket fast wie die Madratzen, viele zierliche Kindertücher mit Hermelin gefuttert. Es war auch alhier vorhanden Königs Henrici octavi Liberey, darinnen eine sehr grosse Bibel nebst schönen Gläsern, auch des Königs Spazierstab aus einem Einhorn.

curtain, worked by Anna Bolonia in gold with her own hands ; also a large and high bedstead, that Henricus octavus used to take with him into camp, everything thereon being embroidered in gold. Another large bed, in which Eduardus sextus had been cut alive from his mother's womb. Further on we were conducted into a large spacious hall full of pictures, all esteemed as works of art.

In the next gallery stood a rather large table with the Bible histories carved out in mother-of-pearl ; also a looking-glass [set] in marble, such as is quarried in England.

Also persons from Cataja¹ were portrayed there in their [national] dress. In another hall were the likenesses of the three [German] prince-electors, offering Henrico octavo the [German] Empire.

The chamber next to it was hung with Turkish tapestry, the other with good velvet, and the following with costly scarlet cloth, the throne, the bed, and the chairs being covered in the same manner as the walls. At last we reached the Paradise chamber, the most magnificent and most splendid room in the whole mansion, perhaps even in the whole realm. The tapestry was of Persian workmanship ; on the table, that was 28 feet long, lay a velvet coverlet reaching down to the ground, thickly set with pearls as large as peas. The throne was of brown velvet worked magnificently with gold and set with pearls and precious stones ; especially brilliant were three large diamonds, worth a mighty sum of money ; a table of Brazilian wood inlaid with silver, upon it lay a cushion with a mirror, and many turquoises thereon, a draught-board of ebony, a chess-board of ivory, and then, on a little table, seven ivory fifes mounted with gold.

Lastly two chambers were shown to us, full of tapestry to an incredible amount, among them a number of Indian covers, very neatly and cunningly wrought in silk, almost like quilts ; a number of pretty kerchiefs for children, lined with ermine.

Here also was King Henricus octavus' library, where was

¹ Kataya, a region in Tartary ; cf. Cathay.

Selbiges Haus hat unterschiedliche viele Lustgärten, insonderheit einen ganz mit Rosmarin besetzt. Von dannen sein ihre fürstliche Gnaden auf Kingstein geritten, 1 Meile, da wir zu Nacht verblieben.

27.—Den 27ten gegen Nonsuitze oder Nonschitz, 3 Meilen, war ein fein königlich Hauss, erstemahlen zwar von Henrico octavo angefangen, aber endlich durch einen Grafen, dem es der König verehret, vollenzogen. Die Königin hatte es jetzo von des Grafen Erben wiederum erkauft. Das palatium hatte zwei viereckigte Plätze, des ersten Platzes Hauss von Quaderstücken, des anderen von künstlichen Gipsfiguren, die waren gefasst in steinerne Leisten, welche stark überguldet.

Um das ganze Haus waren nach englischem Gebrauch, unterschiedliche schöne Lustgärten, darinnen viele marmorne Säulen, piramydes und Tische standen, hinter dem Garten war ein Thiergarten, ward genannt lucus Dianae, darinnen die fabula Actaeonis aus Steine gehauen. Gegen den Mittag sind wir wieder zu Kingstein ankommen, 3 Meilen, und näher Richmond oder Ritzmund gerücket, eine Meile; ein altes doch wohl erbauetes Hauss, hat 3 Plätze. Alhier stunden die manuscripta, so Henricus octavus in grossen Ehren gehalten, darin viel seltsame Dinge, unter andern eine grosse Bibel auf Pargament dessen Buchstaben und Rand gar zierlich und herrlich mit der Feder gemahlet, die genealogia der Könige von Engellandt, von unsern Voreltern Adam und Efa deduciret; ein runder Spiegel, durch welchen gedachter König sollte Alles haben sehen können, und man will fast vermeinen, er habe einen spiritum familiarem darin sitzen gehabt, alldieweil gedachter Spiegel flugs nach des Königs Absterben zersprungen. Dieser König hat befohlen, man möchte nach seinem Ableben ihm das Eingeweide aus seinem Leibe nehmen und dreimal an die Wand werfen, welches denn viele seltsame discourse giebt. Etliche geben vor, es sei aus grosser Devotion geschehen. Ich suspendire mein Judicium und Gedanken von dem Spiegel; wir haben das Logiament gesehen, darinnen er verschieden, auch die

a very large Bible and some beautiful glasses, also the king's walking-staff, made of (the horn of) a unicorn.

This mansion has several pleasure gardens, especially one planted entirely with rosemary. From thence his Serene Highness rode to Kingstein (Kingston), 1 mile, where we remained for the night.

27th.—On the 27th, to Nonsuitze or Nonschitz (Nonsuch), 3 miles, a beautiful royal residence, begun by Henrico octavo, but finished by a duke to whom the king had presented it.

The Queen now had bought it from the duke's heir. The palatium had two quadrangles, the house [which formed] the first quadrangle was of free-stone, the other [was ornamented] with artistic figures of plaster-stone set in stone highly-gilded reglets.

According to the English fashion, the whole house was surrounded by several beautiful pleasure gardens, in which stood many marble columns, obelisks, and tables; at the back of the garden was a park, called *lucus Dianæ*, containing a representation in stone of the *fabula Actæonis*. About midday we again arrived at Kingstein, 3 miles, and went on towards Richmond or Ritzmund, one mile; an old house, but well built, has 3 quadrangles.

There were here manuscripta highly valued by Henricus octavus; among them were many curious things, amongst others a large Bible on parchment, its letters and margin being very neatly and splendidly painted with a pen; the genealogia of the kings of England, traced to our ancestors Adam and Eve; a round mirror in which the king was said to see everything, and it was almost believed he had a *spiritum familiarem* sitting in it, for the mirror broke to pieces the moment after the king's death. This king commanded that after his death his entrails should be taken out of his body and thrown three times against the wall, which gave rise to many strange rumours. Some say, it was done out of great devotion. I reserve my judicium and opinion about the mirror. We saw the apartment in which he expired,

drey blutige Malzeichen an der Wand, da man seinen letzten Willen nachkommen.

In dem nächsten Logiament dabei hatte gemeldetes Königs Vater einen grossen Schatz unter dem Boden heimlich verwahret, auch seinen Diener, dem er es vertrauete, vereidet genommen, solch Geld dem Henrico octavo, der sich etwas wild angelassen, nicht zu offenbahnen, es stosze denn dem Reiche eine Noth an. Weil aber nach des Vaters Tode der Sohn sich auf die studia mit grossem Fleisz begeben, hat der Diener ihm solchen Ort gezeigt, und ist von dem gemeldeten Schatz die köstliche Tapezerei zu Hampte curt und die andre vornehme Gebäude verfertiget worden. Des Abends kamen wir späte in London, ach Meilen, über die lange steinerne Brücken, welche eine Wittwe mit ihren Unkosten aufgeführret. Jetziger Zeit ist sie mit grossen Häusern besetzt, die meistentheils aus Holtz gebauet, durch welche man mitten durch fahren und reiten muss, und sind allhier viele Waaren, insonderheit allerlei Spezerei zu kaufen. Nicht weit vom Ende nach der Vorstadt stecken aber 30 Köpfe vornehmer Herren, welche wegen tradiment und heimlicher Praktiken wider die Königin enthauptet worden. Als wir in die Vorstadt kommen, haben uns die Gefangenen mit einem muthwilligen Geschrey um ein Almosen angelegen, welches denn im Gebrauch ist in ganz Engellandt wie auch fast in Frankreich und Italien, welches den armen Tropfen nicht zu verdenken, weil ihnen sonst die Zeit sehr lang wird, alldieweil nur 2 mal im Jahr die justitia im Reiche exequiret, und hat es hiemit eine solche Gelegenheit.

Als bald ein Übelthäter betreten wird welcher männiglich ohne Verletzung seiner Ehren ungescheuet angegriffen, wird er vor den königlichen commissarium einer jeden Stadt oder auch Dorfes geführt, der lässt ihn in der Person verwahren und an den Landvogt gelangen, welcher nimmt von Stund an Kundschaft auf und versucht, ob er in Güte etwas bekennen wolle. Wenn nun der oberste Juditz mit dem obersten Justitz, welches gar ansehnliche gelehrte Leute sein, aus London nebst denen dazu verordneten Assessoren auch vielen Stock knechten und Henkersbuben rücket, welches 2

also the three bloody marks on the wall, caused by fulfilling his last wish.

In the apartment next to it, the above king's father kept a great treasure secretly hidden underneath the floor, and made his servant, to whom he confided it, swear not to reveal anything about this money to Henricus octavus, whose behaviour was rather wild, unless some great distress should befall the realm. As, however, after his father's death the son took to his studia with great diligence, the servant showed him the place, and this said treasure was spent in obtaining the costly tapestries in Hampton court and the other royal houses.

Late in the evening we arrived in London, eight miles, passing across the long stone bridge, that a widow had erected at her own expense. At present it is lined with large houses, most of them built of wood, between which one has to ride or drive. All sorts of merchandise, especially spices, may be bought there. Near the end of the bridge, on the suburb side, were stuck up the heads of 30 gentlemen of high standing who had been beheaded on account of treason and secret practices against the Queen. When we entered the suburb, the prisoners with petulant cries beseeched us for alms, this being the custom throughout England, and also in France and Italy; and the poor fellows can scarcely be blamed, for time must wag rather slowly with them. For only twice a year is justitia administered in the kingdom, and is carried out in the following manner.

When a malefactor, who has attacked others without violating their honour, is arrested, he is brought before the Royal Commissioner appointed in every town or even village, who keeps him in custody and hands him over to the sheriff, who immediately seeks information, and endeavours to obtain a spontaneous confession. When thereupon the chief judge, together with the chief justice, who are very worthy and learned men, come from London with the assessors appointed, and also with jailors and the hangman's servants,

mal im Jahr geschicht, werden sie von jedes Orts Landvogt gar stattlich und zuweilen mit hundert auch wohl mehr Pferden empfangen, und wird ihnen fort der numerus der Gefangenen nebst ihrem gütlichen Bekenntniss übergeben. Diese oberste judices erwehlen 12 ehrliche Biederleute aus der Nachbarschaft, welche solcher Sachen kundig, die werden vereidet genommen und müssen eher nicht von einander gehen, bis sie geschlossen, ob der reus schuldig oder nicht. Halten sie es denn davor, dass er die That begangen und es gleichwohl gütlich nicht gestehen will, da er doch durch langwierige Gefängnisse genugsam ausgewartet, wird er auf sonderliche Manier torquirt, so dass es seiner Gesundheit nicht schaden kann. Gestehet er aber das factum, so verdammet ihn der judex und übergiebt ihn der obersten Justitz, das ist executori justitiæ, der lässt ihn nach gestalten Sachen gemeinlich henken, wozu sie denn des Scharfrichters Dienst nicht gebrauchen, sondern wenn derer Uebelthäter viele sein, nimmt man einen unter ihnen, der zum wenigsten verschuldet oder sonst commiseratione dignus ist. Sollten es aber grobe Excesse sein, darauf schwere Strafen gehören, als dann gebraucht man erst den Scharfrichter.

28.—Den 28sten sein etliche unsers Mittels in S. Pauli Kirchen gegangen, die Vesper anzuhören, welche so gross, dass 2 Kirchen, eine über die ander und noch ein gross Chor darein begriffen. Es kommen gemeinlich die gentilhomini an diesen Ort zusammen, wie auf der Börse die Kaufleute, die hören zu der schönen Musica, welche täglich gehalten. Die Sänger gleichwie auch die Prädiger gehen in weissen Chorröcken, gebrauchen sich vieler päpstlicher Ceremonien, fallen gemeinlich nieder, wenn sie in die Kirche kommen, und halten sonst gute Ordnung. Wir sein auf den hohen Thurm gestiegen und die Stadt übersehen, welche von dem Westmünster bis an S. Catharina Thurm, fast bey einer deutschen Meile lang, wiewohl sie nicht allenthalben gleich breit.

Der berühmte und wohlerfahrene Dr. Paludanus hat sie

which happens twice a year, they are received by the sheriff of each town in great state, sometimes accompanied by a hundred or more people on horseback, and the number of prisoners, and their spontaneous confessions, are handed over to them. These highest judges then choose 12 honest and righteous men from the neighbourhood, well versed in such matters, who are sworn in and are not allowed to separate before having come to a conclusion, as to whether the reus is guilty or not. If they are persuaded that he has done the deed and will nevertheless not confess to it, he is tortured to a certain degree, without injuring his health, although he has endured a sufficiently long imprisonment.

If, however, he confesses the deed, the *judex* condemns him, and hands him over to the chief justice or *executori justitiæ*, who as the case stands generally order him to be hanged. For this the executioner's services are not required, because if there are many malefactors, one of them, who is least guilty, or who for other reasons is *commiseratione dignus*, is made use of [to hang the others]. In case of great crimes, however, that require severe punishment, the executioner is employed.

28th.—On the 28th some of our party went to S. Paul's Church to hear the vespers; it is so large that it contains 2 churches one above the other and a large choir.

Gentilhomini assemble in this place, as merchants do at the Exchange, to hear the beautiful music, which is daily performed. The singers as well as the preachers wear white surplices, making use of many Popish ceremonies, all kneeling down on entering the church and otherwise keeping good order.

We mounted the high steeple, and had a view over the city, which from Westminster down to S. Catharine's tower is almost a German mile in length, though not everywhere of the same breadth.

The celebrated and well-informed Dr. Paludanus¹ com-

¹ The name Paludanus (in German, Van den Broeck) occurs frequently among the learned men of the sixteenth century. Here reference is made to Bernard

Paris vergleichen, auch an der Menge des Volks, denn ob nicht schon allezeit ein solches Gedränge auf den Gassen zu vernehmen als zu Paris, so lebet doch ein gut Theil der Leute auf den Schiffen und zur Seefarth.

29.—Den 29sten ist der neue Lordmejor erwählet. Ehe die Wahl geschehen, sind alle Raths verwandtem in ihrem Habit, nemlich in rothen Scharlacken zum Tische des Herrn gegangen, hernacher sind mit einem Eyde verpflichtet, den tüchtigsten zu dem Amte zu erwehlen. Dieser neue Lordmejor nimmt sich in den ersten 6 Wochen der Regierung nicht an, wird unterdess für einen Grafen gescholten.

30.—Den 30sten machten ihre fürstliche Gnaden sich wiederum auf die Rückreise, kommen erstlich zu Grinwiche oder Grenvitz, 3 Meile, da wir auf dem königlichen Hause viel seidene Tapeten von Chineser Arbeit gewirkt, ein guldenes Schach und Bretspiel, in welches Bricken die fürnemste deutsche Fürsten, unter andern auch Herzog Johann Friederich und Herzog Ernst Ludwig weiland Hertzoge von Stettin-Pommern hochmilden Gedächtniss in Wachs abpoussiret.

Diese Sachen hatte der Graf von Essex, dessen Bildniss uns auch gezeiget, der Königin verehret, noch zwei Saltzierichen in China verfertigt, eine köstliche Uhr und ein Buch, darinnen die statuta regni beschrieben. Dieses Tages sind wir zeitig zu Rochester ankommen, 17 Meilen, da wir eine schöne musicam von Violen und Pandoren gehört, wie denn in ganz Engellandt gebräuchlich, dass die Spielleute auch in den kleinen Flecken um ein Geringes aufwarten, stellen sich des Morgens gegen dass man erwachet, vorder Kammer wieder ein und streichen etliche geistliche Lieder.

Den 1. Octobris ward ihre fürstliche Gnaden von den königlichen Befehlshabern zu der Armada geführt; alda stehen auf dem Castel Oppingen, welches im Port lieget, die Krieges-

pared it to Paris, even as regards the number of people ; for although no such great crowds are generally seen in the streets here as in Paris, a goodly portion of them live on the ships or at sea.

29th.—On the 29th the new Lord Mayor was elected. Before the election is made, all the members of the council in their robes—that is, in bright scarlet—go to the Mayor's table, after which they are bound by oath to elect the one most suitable to the office. This new Lord Mayor does not take up office during the first six weeks, but during this time he is called a lord.

30th.—On the 30th his princely Grace turned homewards ; and came first to Grinwiche or Grenvitz (Greenwich), 3 miles, where we saw in the Royal house many silk tapestries, wrought in Chinese workmanship, a golden chess- and draught-board, in the squares of which were embossed in wax [!] the most eminent German princes, among them Duke Johann Friederich and Duke Ernst Ludwig,¹ late Dukes of Pomerania-Stettin of blessed memory.

These objects have been presented to the Queen by Essex, whose portrait was also shown to us, as well as two salt-cellar made in China, a precious clock, and a book, with the *statuta regni* written in it.

This day early we arrived at Rochester, 17 miles, where we heard beautiful music of violas and pandoras, for in all England it is the custom, that even in small villages the musicians wait on you for a small fee ; in the morning, about wakening time, they stand outside the chamber, playing religious hymns.

The 1st of October his princely Grace was conducted to the Armada by the royal commanding officers. The men-of-war, 40 altogether, lie close to the Castle of Oppingen (?),²

Paludanus, a Dutch physician, born 1550, died 1633, after having performed extensive travels through the various States of Europe and parts of Asia and Africa.

¹ Johann Friederich, Duke of Pomerania-Stettin, born 1542, died 1600, uncle of the young Duke Philip Julius ; Ernst Ludwig, Duke of Pomerania-Wolgast, born 1545, died 1592, younger brother of the former, and father of Philip Julius.

² This passage is very obscure.

schiffe, derer in allem 40 seyn; die meisten waren zu dieser Zeit ausgeschicket. Wir sein die grössten angestiegen, nehmlich die Elisabeth, den Bären, und Triumpf. Zu jedes Ausrüstung gehörten 68 grosse Stücke, 500 Bothsleute und 500 Soldaten; waren alle vorne niedrig, hinten aber sehr hoch gebauet, dass einem ein Grausen ankam, der herunter sehen sollte. Die Stuben waren mit köstlichen Gemälden und auch sehr schönen emblematisches gezieret. Als wir wiederum zurücke kommen, sahen wir vor der Stadt Thor einen langen, grossen Baum oder Balken, darauf ein Sessel gemacht, ging ziemlich weit aufs Wasser, welches sie ein hölzern Pferd nennen, darauf die bösen Weiber zu Wasser reiten müssen, und wurden ferner berichtet, es würde ein jeder Bürger vereydet in Engellandt genommen, auf seines Nachbarn Hauss gute Achtung zu geben, ob die Eheleute in Einigkeit lebten, denn wiewohl die Weiber in dem Reiche grosse Freiheit haben, will man ihnen doch keinen Muthwillen gestatten. Wenn nun durch Anzeigung die Nachbarschaft eine Zweihelligkeit vermerket, bescheidet der Rath beide Theile vor sich und erkundet, bei wem die Ursache des Zweyspalts beruhe. So der Mann ein störriger unfreundlicher Kopf, wird er in eine Geldbuse verdammet, bestehet aber der Unfug bey dem Weibe, wird zwar der Mann gleichfalls bestraft, dass er sein Ansehen nicht habe erhalten können, das Weib aber wird auf jetzt gedachten Stuhl gesetzt und durch die Buben so in der Stadt herumlaufen, dreymahl ins Wasser gesenket bis an den Hals. Wenn sie nun durchgenässet und wohl beschämt, kömmt sie also ihrem Ehwirte wieder zu Hause, der sie denn nach Landesgebrauch mit warmen Tüchern, sonderlich zu Winters Zeit, erquicken und abtrucknen lässt.

Von Rochester ritten wir auf der Post Cantabri, 12 Meilen, gingen in die grosse Kirche, darinnen zwei Könige, Eduardus quartus und septimus, begraben liegen. Auf den späten Abend kamen wir zu Dover, war so stockfinster, das man nicht den Weg vor sich sehen können, derohalben wir auch von einander geirret.

which is situated on the harbour, most of them having been sent out at this time. We mounted the largest of them, *i.e.* the 'Elizabeth,' the 'Bear,' and the 'Triumph.' To the equipment of each of them belong 68 large guns, 500 sailors, and 500 soldiers; they were all built very low at the head, but very high at the stern, so that it made one shudder to look downwards. The rooms [cabins] were ornamented with precious paintings and beautiful emblematis. *bus*.

On our return we saw before the gate of the town a long large tree or beam, with a seat made upon it, reaching very far over the water. They call it the wooden horse, and the bad wives are obliged to ride on it into the water. We were further told that in England every citizen is bound by oath to keep a sharp eye at his neighbour's house, as to whether the married people live in harmony, for though in this realm much liberty is granted to the women, no licentiousness is allowed them. If by the neighbourhood any matrimonial differences are noticed, both parties are ordered to appear before the magistrate, who inquires on which side lies the cause of disharmony. If the husband is an unfriendly or obstinate fellow, he is condemned to pay a fine in money; if, however, the mischief is on the wife's side, the husband is likewise punished for not having been able to keep up his authority, but the wife is placed on the above-mentioned chair and ducked three times into the water up to the neck by the boys who roam about in the streets. When she is well drenched and well shamed, she returns home to her husband, who after the custom of the country gives her comfort by getting her dried with warm cloths, especially in winter time.

From Rochester we rode by post to Cantabri [Canterbury], 12 miles, entered the large church, in which lie buried two kings, Eduardus quartus and septimus. Late in the evening we reached Dover, it being so pitch dark that we could not see the road before us, some of our party consequently losing themselves.

2.—Den 2ten October sind ihre fürstliche Gnaden das alte und feste Castel vor Dover, von Julio Cæsare erbauet, angestiegen, war mit zweyen Graben und drey doppelten Mauern umgeben, mit Geschützen nach Nothdurft versehen, das erste Stück war 31 Spannen lang. Der Brunnen auf der Vestung 64 Klafter tief. Alhier ward Mehl gezeiget, so von Julii Cæsaris Zeiten her gelegen, war hartem Kalk nicht ungleich. Gegen Abend kam das Kriegesschiff an mit 50 Soldaten und 20 Stücken welches ihre fürstliche Gnaden nach Cales convoyiren solte.

3.—Den 3ten gingen ihre fürstliche Gnaden zu früher Tageszeit zu Schiffe und sind um den Mittag bey stillem Wetter zu Cales ankommen, 10 Meilen.

2nd.—On October 2 his princely Grace ascended the old and strong Castle of Dover, built by Julius Cæsar, surrounded by two ditches and treble walls, provided with the necessary artillery, the principal piece being 31 spans in length. The well in this fortress was 64 fathoms deep.

Flour was shown lying here from the time *Julii Cæsaris*; it was not unlike hard lime.

Towards evening the man-of-war arrived that was to convey us to Cales, with 50 soldiers and 20 guns.

3rd.—On the 3rd his princely Grace went on board at an early hour of the day; the weather being calm we reached Cales about midday, 10 miles.

THE ROUMANIAN LANGUAGE.

BY ROBINSON THORNTON, D.D.

Read April 7, 1892.

IN the old portion of the city of Rome, between the Capitoline and Quirinal Hills, and north-west of the old Forum, stands a column, some 117 feet high, surmounted by a statue of St. Peter, and adorned with a bas-relief, winding spirally round the shaft, from pedestal to summit. This column commemorates the events which led to the formation of the Roumanian people and language.

Before proceeding further I shall venture to clear away some ambiguity attaching to this word 'Roumanian.' I must explain how it differs in meaning from Romance, Romany, Romanese, and Romaic. *Romance* is a name common to all the languages formed on the breaking up of Latin. Roumanian is one of these, but the term is generic, not specific. There are other Romance languages besides Roumanian. One of these is *Romanese*, or Rumonsch, which is the Romance language spoken in the Grisons, and called by linguists Raeto-Romanic; it has a sisterly resemblance to Roumanian, but differs from it considerably.

Romany is the name applied to themselves by the singular people whom we call gipsies, or Egyptians, and others term Bohemians, Gitanos, Zingari, Cygans, or Zigeuner. The meaning and origin of this latter word are unknown. Some consider it a Persian local name (Zingi). Adelung suggests the Latin *cingere*, from their wandering habits, a derivation quite in his style; but he rejects it—as well he might—and refers it to a Polish word, *zycha*, a tent; a very suit-

able derivation, if there were such a word. But there is not. 'Tent' in Polish is *namloty*. *Zuch* means a bully, and *zerek*, a blackbeetle, which would both be nearer the mark, if we supposed the word to be Polish at all. But what about Romany? The gipsies did not, and do not, intend to call themselves Romans. Perhaps it means 'manly,' as their word for man is *ro* (curiously like the Egyptian *romi*); or, still more probably, it is an Indian name, the same as the Hindi *doma*, meaning a low-caste man. But the Indian nomads have no connection with our Roumans.

Romaic is a term which was once applied to the modern form of Greek. So long as Constantinople kept up the name of New Rome, so long the Greek spoken there was called Romaic, to distinguish it from the Osmanli (Turkish), which had become the court language of the city; and the name was long retained, just as the adjacent district (ancient Thrace) is still called Roumelia. However, I would not recommend anyone who may get into conversation with a modern Athenian to speak of his language as 'Romaic'; he might just as well call a fashionable coiffeur a barber, or the proprietor of a West End hotel a publican; he would be informed, perhaps with some asperity, that the proper word is 'Hellenic.'

To return to the point whence I digressed. The column of which I spoke at the outset was erected by the emperor Trajan in A.D. 107 to commemorate the subjugation and suicide of Dekebalus, the warlike chieftain of the Dacians, an important branch of the great Thracian race, whose locality was the north bank of the lower Danube, between the Tibiscus (Theiss) and the Porata (Pruth). Their country was occupied in the usual way by a number of Roman colonists, and their capital, Sarmizegethusa, on the Sargetia (Strel), converted into a Roman colony under the title of Ulpia Trajana.

These Dacians were known to the Greeks under the name of Getae (Plin. 'H. N.' iv. 25). Strictly speaking, the western part of the tribe were called Daci, the eastern Getae (Strabo, vii. 3). The reader of Herodotus will remember his account

(iv. 23) of these people, their belief in a future state, and their god Zamolxis or Gebeleizis. The apparent similarity of the names Getae and Goth has led some persons to suppose, in spite of historical and geographical difficulties, that the Dacians and Goths were the same race. So Jornandes the Goth, who became an Italian in the sixth century, and was raised to the episcopate—though most probably not, as some have fancied, that of Ravenna—entitles his book on the history and antiquities of his race 'De Getarum origine et rebus gestis.' In this, however, as in numerous other matters, I think the right reverend prelate made a mistake. It seems to me that on no true principles of philology can GeT be identified with GoTH. We might as well try to make it the same with KHeT, and so consider the tribe an offshoot of the great Hittite race; and so read Dekebalus as a Semitic title, Dac-baal, 'the oppressing lord,' and the name Dacian itself as equivalent to 'crusher.' As a matter of fact, the Getae or Dacians were neither Gothic Aryans, nor Semites, nor Hamites, nor Turanian. Whether they are to be identified with Hittites or not is a question which we cannot answer till we know more about the Hittites. I do not think the Dacian figures on Trajan's pillar are Hittite in face or costume. The Dacians were Aryans of the Pelasgic family, and spoke a Pelasgic tongue, usually termed Illyrian. The name of their chieftain simply means 'Dacian king'; for we find the word *balen* in AEschylus ('Pers.' 658) explained to signify 'king' in Phrygian, and we know that the Phrygians belonged to the great Thracian race. Indeed, we may fairly consider DaK and GeT as equivalent forms, gutturals (or rather palatals), labials, and dentals being interchanged, as in the ancient dialectic Greek *ποκα* and *κοτε* for *ποτε*, and, as we shall see hereafter, in Roumanian itself.

Of the old Illyrian or Thracian tongue we are as yet profoundly ignorant. It had no literature; none, at least, that has descended to us; we are not sure if it ever was written. It was Aryan, doubtless, and is probably represented by the modern Albanian or Arnaout. The names of the

Dacian god given by Herodotus are significant in Lithuanian (an Aryan tongue of the Sarmatian family). Praetorius, in his 'Orbis Gothicus,' explains Zamolxis by *Ziameluks*, 'god of the earth,' and Gebeleizis by *Gyvaleysis*, 'producer of peace.' This would tend to connect Thracian with the Sarmatian family of tongues. But such a coincidence, though it may be an indication, or even give room for a presumption, is not a foundation for definite philological, ethnological, or historical conclusions. We cannot remember too carefully that philology, ethnology, and history are different sciences. They are related, and may and do illustrate one another; but they must not be mutually confounded.

About 170 years after the foundation of Ulpia Trajana the Roman colony was moved to the south of the Danube by the emperor Aurelian (270) into a part of Moesia, called from this circumstance Dacia Aureliani. The disturbing cause was the advent of the Goths in the time of Julius Philippus (245), and their inroads in Dacia from that period—so persistent and so severe that even the conqueror of Zenobia found the better part of valour to be discretion, and wisely retired from, or in modern language *scuttled* out of, a country he found himself unable to defend. But though the colony was withdrawn the settlers did not all leave. Romans and their language still remained north of the Danube, and the Roman tongue, which in Britain did not prevail over Keltic, and in Gaul did, was victorious in the strife over Illyrian and Gothic. Both of these languages had their effect on the neo-Latin development, but the language which survived and was developed was Roman, not Illyrian. I say 'Roman' advisedly, because it was (as everyone now probably knows and maintains) the rustic Roman, and not the urban Latin, which was the origin of, and is the prime element in, all the Romance dialects.

Next to the Goths came the Huns (375-455). They caused fearful misery and desolation in Europe, from the Don to the Marne; but a mere temporary wave of Mongol invasion could have no effect whatever on a Romano-Gothic

tribe, or on a Roman dialect with Illyrian and German flavouring. The Huns were nothing after the death of Attila in 453, till they reappeared, in an altered form, as Bulgarians.

Towards the end of the fifth century (489) the Slavs appeared upon the scene, and began to assail the Romano-Dacian territory; and in 559 we find them, with the Bulgarians and their leader Zabergan, crossing the frozen waters of the Danube and advancing to the very walls of Constantinople, from which it needed the consummate skill and courage of Belisarius to repel them. But they were not dislodged from the south of the Danube: they occupied Moesia, north of the Balkan, and part of Thrace, south of that mountain range; and by the middle of the eighth century had occupied a portion of Macedonia, where a province was formed, under the name of Slovinia. From that time to the present the Dako-Romans have been surrounded by Slav peoples, except towards the west, where the Magyars or Hungarians settled themselves.

In the thirteenth century Hungary was invaded by Gengis-Khan and his Tartars. Up to this time the Dako-Romans had been subservient, now to the Greek emperors, now to the barbarians. But when the Hungarians under Bela had repelled the Tartar invaders, they placed themselves under Magyar protection, and appointed for themselves special governors, under the Slavic title of *veivode*. The first of these was Rhaddo (or Radul) the Black, who was probably not one of their race, but a Slav. He built and repaired several cities, notably Corté d'Argish, his original residence, Tergovist, the subsequent capital, and Bucharest, of which we shall hear more hereafter.

As I am giving a history of the people rather with reference to their language than their politics, it will not be necessary for me to go into the details of Byzantine claims and Byzantine failures, or to inquire who and what were the Pazinaci, or to tell of the deeds of Bogdan, the Voivode of Cumania. I pass on to the eventful year 1453, when Constantine XIII gave way to Mahomet II, and Constantinople ceased to be Christian.

The Romans of the lower Danube, inhabiting the tracts now known as Wallachia, Moldavia (from the Moldava, a confluent of the Ararus, now Sereth), the Banat of Temesvar, and Bulgaria (south of the Danube), passed under the rule of the Crescent, and came in contact with a new language. They had been in turn the servants of imperial Rome, barbarian, Greek, and Hungarian, and now were under the Turk. But they were not reduced to entire slavery, nor indeed subdued without a struggle. After the fall of Constantinople they crossed the Danube and gave battle to Mahomet. He defeated them, but granted them a treaty, which was observed with tolerable fidelity for some 250 years. The Wallachians were to pay a tribute of 10,000 piastres yearly, and in return were to enjoy their own laws and elect their own voivodes. Turks were not to reside in Wallachia, nor was any mosque to be erected in that country. Wallachians entering Turkey were not to become rayas, or Turkish subjects; and Christians who had apostatized, and then returned to their old faith (a capital crime by Turkish law), were to be allowed to live unmolested in Wallachia. This state of things continued till 1711, when the voivode Constantine Bessarabba agreed to give aid to Peter the Great of Russia, who had advanced to Jassy, the Moldavian capital. He failed the Russians, however—terrified, it seems, by the preparations of the Turks—and the Russians were saved from destruction only by the astuteness of the empress Catherine, who bribed the grand vizier with her jewels. Bessarabba and his sons were seized the next year and brought to Constantinople, where they were cruelly tortured and put to death. He was the last voivode appointed according to the treaty; from his time the voivodes were chosen by the Turkish Government from among the Greek princes of the Fanal: the first of these was Nikolas Mavrocordato, who was originally a physician, and then dragoman to the Porte. He was appointed in 1716. Another of this family, Constantine Mavrocordato, appointed in 1735, was an eminent ruler. It is to him that the Roumanians owe the

present condition of their language. Up to his time it had hardly been more than a spoken tongue, and had but little literature. He drew up a grammar of it, and modified the Slavonic alphabet, which was generally employed, so as to adapt it to the language of the country. Amongst other good works he introduced the Scriptures into the churches. As usual, under Turkish rule, in the case of an active and intelligent governor, he was recalled from his government but was subsequently reinstated. Less fortunate were Calimachi in 1812, and Negri in 1822, who fell under suspicion were recalled, and put to death, the former secretly, the latter publicly. By this time the Turks had got tired of, and out of love with, the Greeks, and determined to appoint native *boyars* (nobles) to rule over Wallachia; and, accordingly, Nikolas Ghika was, in 1823, consecrated Voivode of Wallachia.

The people of whom I have been speaking have, therefore, been a subject nation, but have so far maintained the glory of their Roman origin that they have never been reduced to slavery. Within the last twenty years they have relieved themselves, or have been relieved, of the semblance of a foreign yoke, and are a free people, ruled by their own prince; and the two provinces of Wallachia and Moldavia were united by a proclamation, issued December 23, 1861, under the name of Roumania. But the name Wallachian has been constantly applied to the Roumans and to their language; and its use is scarcely dropped as yet, though a Rouman would be somewhat offended nowadays if he were spoken of as a Wallach: he would consider it much in the same light as a Berlin Kleidermacher would view the being termed Schneider. The origin of the name is variously explained. Some will have it that it signifies the country, and not the people, being, in fact, Flaccia, from Flaccus, a popular *propraetor* mentioned by Ovid ('Ep. Pont.' IV. ix. 75).

Praefuit his, Graecine, locis modo Flaccus, et illo

Ripa ferox Istri sub duce tuta fuit :

Hic tenuit Moesas gentes in pace fideli,

Hic arcu fisos terruit ense Getas.

For this etymology there is no real foundation. Though the Turkish form of the name, *Iflák*, might possibly have been the Tartar transmutation of *Flaccia*, yet the Greek *Βλαχία*, the Servian *Wla*, and the Hungarian *Oláh* cannot possibly represent that name. Another derivation is from *valech*, Slavonic for 'shepherd.' A more probable theory—though the Servian and Hungarian forms of the name are against it—traces it to the German *Wälsch*, stranger, which is connected with the Sanskrit *mlechchha*, a word implying much the same idea.

The Roumans are divided, as regards their language, into three portions. Those north of the Danube are Dako-Romanic: of these the Moldavians, or, as the Turks call them, *Kara-wallach* (black Wallachians), whose capital is *Jassy*, on a confluent of the *Pruth*, speak a dialect varying from the purity of the classical Rouman. The *Makedo-Romans*, or *Koutzo-wallach* (lame Wallachians), live south of the Danube: their dialect is a patois, and they are nicknamed *Zinzar*, from their mispronunciation of the word *cinc*, five. The true Rouman is spoken north of the Danube, in *Wallachia* proper, a district the capital of which is *Bucharest* (*Bucuresti*), on the *Dumbovitza*, a small river which joins the *Arjisch* (*Ardiscus*), and flows with it into the Danube. The earlier capital was (as I have already mentioned) *Tergovist*, which stands north-west of *Bucharest*, on the *Jalomnitza* (*Naparis*), a direct tributary of the Danube. The situation of *Tergovist* was high and healthy, but the celebrated *Bessarabba* chose, for some reason or other, to transfer the seat of government, in 1689, from this place to a village situated in a swamp which formerly belonged to a boyar named *Buchor*, whence the name. Those, however, who desire to give it dignity maintain that the name is derived from *bucura*, the Rouman for 'rejoice.' It is with the Roumanian of the court of *Bucharest* that we are especially concerned, as being the least adulterated form of the Danubian Roman.

It is rather amusing to read the remarks on this language

made before the systematization of philological science. With some it is a mere corrupt Latin, introduced by Goths and Lombards. Others add: 'It is like Italian, but so corrupt that the Italians cannot understand it.' With others it is a Slavonic tongue with a quantity of Italian words in it. Others seem to look upon it as a mere lingua franca, scarcely to be called a language at all. But it is, philology tells us, a true language, as truly such as French or Spanish, developed out of the Roman, though under widely different influences and amidst widely different surroundings.¹

¹ It is hardly necessary, perhaps, now to bring forward any arguments to prove that Rouman is a Romance, and not a Slavic or Tartar tongue. Still it may not be amiss to show conclusive proofs of its close relation to the West rather than to the East and North. The test words of a vocabulary are the pronouns and numerals. Let us compare the Rouman pronouns and numerals with Italian, Russ, Gothic, and Turkish (typical Romance, Slavic, German, and Tartar), and we shall be at no loss to decide.

Rouman	Italian	Russ	Gothic	Turkish
eu	io	ya	ik	ben
tu	tu	ti	thu	sen
el	egli	ón	is	ol
noi	noi	mi	veis	biz
voi	voi	vi	jus	siz
ei	eglino	oni	eis	onlar

Numerals.

un	un	oden	ains	bir
doi	due	dva	tvai	iki
trei	tre	tri	threis	üch
patru	quattro	chetire	fidvor	durt
cinci	cinqe	pyat	fimf	besh
şase	sei	shest	saihs	alti
şapta	sette	sem	sibun	yeddi
opt	otto	vosem	ahtau	sikkiz
noă	nove	devyat	nün	dokkuz
şecce	dieci	desat	taihun	aun
suta (100)	cento	sto	taihuntehund	yuz

Present tense of the verb 'to be.'

sunt	sono	esm	im	im
eşti	sei	esi	is	sen
est	è	est	ist	dir
suntem	siamo	esmi	sijum	iz
sunteţi	siete	este	sijuth	siñiz
sunt	sono	sut	sind	dirler

The Roman of Ulpia Trajana first had to assert itself (as we have seen) over the old Dacian or Illyrian language. It succeeded in doing so, as it had asserted itself over Kelt-Iberian in Spain; but (says Toppeltinus in his '*Origines Transylvanorum*') how the Dacians came to part with their old language, and take up that of the Romans, it is hard to understand. I think we may trace it to the fact that the Roman would not part with *his* old language, and carried his point. It is curious to think what might have been the effect in India if we had adhered to the same system; whether we should now have been witnessing the formation of an Anglo-Indian Aryan language with a Dravidian tinge to the vocabulary. This could scarcely be, I should think, so long as our English remained a literary language, and there was constant communication with the seat of government. New languages can be formed only on the disintegration of old ones. It will be time enough to think of neo-Anglic tongues when old England goes to pieces; and speculations on this subject are, and I hope always will be, premature.

Still, the old Dacian could not but influence greatly, though it did not overpower, the new language with which it came into contact; the tongue became Dako-Roman, though not Romano-Dakic. The Goths exercised their influence, too, and the Lombards also. It is to Gothic and Lombard, more than to modern Teuton tongues, that we may trace the slight Germanic element in Rouman. The influence was, however, but slight; we have only to compare Rouman with Spanish to see this; the Teutonic element in the latter language is very palpable.

Not so, however, the Slavs. Their speech, and especially those forms of it which we now call Slovenian and Bulgarian, did influence the formation of Rouman to a very great extent; and their influence still continues. Not only is the alphabet full of Slavic sounds, and the vocabulary of Slavic words, but the grammar is as much affected by Slavic as it is philologically possible for one grammar to be affected by another. Rouman grammar is Latin, there is no doubt, and differs

essentially from Slavic both in its general character, and notably in its great simplicity, as contrasted with the complex expressiveness of Slavic; but there are points in which the Slav grammar seems to have been engrafted on the Latin.

After the Slavs came the Greeks; and they, too, have left their traces in the vocabulary. Their successors, the Turks, for four centuries the rulers of Wallachia, have infused a Tartar element into the Rouman speech; and the Hungarians have contributed another Turanian influence. But these have affected the diction, and that alone.

There is yet another language by which the Rouman speech has been, and still perhaps is, affected to a considerable degree, and that is the dialect of the wild mountain tribes living on the east side of the Adriatic, who call themselves *shkipetar* (mountaineers), but whom we know as Albanians or Arnaouts. This strange tongue is still more or less of a mystery to philologists, as it has no written literature, and it would be the dangerous work of half a lifetime to reside among these people in order to acquire and systematize their language. There is much reason, as I have already hinted, to hold with Xylander that Albanian is the modern form or development (amidst Greek, Slavonic, and Turkish surroundings) of the old Illyrian tongue of the Dacians. If this be the case, the Rouman has been from first to last under Dacian influence, and many of the words ascribed to Albanian may be in fact referred to the old Illyrian element. The more modern Albanian, however, is the immediate parent of no small number.

From these remarks on the history, or what we may term the 'vicissitudes,' of Rouman, I proceed to the language itself. It is, like many others, an easy one to become slightly acquainted with. The grammar and ordinary words and phrases present no difficulty to one who knows Latin and Italian; but a more extended knowledge of the language, including an acquaintance with its vocabulary, and the power of conversing in it, is not very readily acquired.

The Rouman consonants are simple enough. There is no German or Dutch guttural, still less any Welsh aspirated 'll'

to puzzle our English organs. But the vowels are different. The vocalization and intonation of the language are Slavonic. The Russian *yeri*, or something very much like it, is a frequent sound, and can be heard correctly only from the mouth of a native; and an initial 'e' is preceded, as in Slavonic, by the sound of 'y.' *El era* would sound like *yel yera*.

Up to the end of the fifteenth century the Roumans had no literature, and therefore needed no alphabet. The MS. of the earliest known specimen of the language dates in 1495. It was printed and published some years ago at Jassy under the title '*Fragment istorik in vechea limbă română*.' The earliest *printed* book dates 1580. The character employed in the '*Fragment*,' and indeed up to 1677, is the old Slavonic, invented by Constantine and Methodius in the ninth century, and called Cyrillian because Constantine was permitted by Pope Adrian II. to assume the name of Cyril at his consecration as Bishop of Moravia in 868, only forty days before his death. If the Roumans employed any character before the fifteenth century it was probably the Latin; but after the Council of Florence in 1439 had agreed on the union of the Eastern and Western Churches, they took offence, and showed their staunch adherence to the East by adopting the Cyrillian alphabet as used by the Servians. The original Cyrillian characters are forty-six in number, but the Servians used only forty-two. To these the Roumans added two of their own, thus bringing the number up to forty-four. In 1677 an attempt was made to employ the Roman letters; but no fixed system of phonetic representation was, or indeed has been, agreed upon; and the hooks and accents employed in different ways to show the Rouman value to be given to each consonant and vowel are extremely puzzling, or, as the natives term it, *turnul Vavilónului*, the Tower of Babel.

The Cyrillian alphabet is still used, but with the simplification introduced in Russia by Peter the Great, who by ukaz, about 1704, suppressed six or more of the characters then in use and modified the form of others. (Only fancy Queen Victoria forbidding us to employ 'q' and 'x,' as being

unnecessary, making us spell *philosopher* with an 'f,' and requiring us to write 't' like the Greek 'tau'!) The adoption in Wallachia of the simplified alphabet is due, as I have said, to the Voivode Constantine Mavrocordato.

The question is raised, which alphabet, Latin or Slavic, is best suited for Rouman? Latin sounds are best represented by Latin letters. Rouman, however, is so very Slavic in its intonation that one would incline to decide in favour of the Cyrillic character as best suited to express Slavic sounds. But then, on the other hand, the uncompromising adoption of these would cut Roumania off from the rest of the Latin nations, and tend to Russianize her. So the question becomes a political one.

From the alphabet we pass on to the vocabulary. Half of this, it is computed, is Latin, the other half Slav, Albanian, Greek, Turkish, Magyar, German, in different proportions, the Slav largely preponderating. Bolintineano (1856) puts it as Latin '6, Slav '2, others '2. I may give some specimens of non-Latin words expressing ordinary ideas, taken at random from the dictionary:—

Bogát, rich (Slav); *broasca*, frog (Alb. *breška*, tortoise; Mod.Gk. *brouko*); *se bucura*, to rejoice, Turkish *bukurmak*. The Albanian has *bukurég*, to adorn. The derivation is suggested from *bonum cor!* *evlavia*, religion (Greek); *glas*, voice, Slav *golos* (*voce* is also used); *han*, inn (Turkish); *jeler*, peasant, Magy. *zseller*; *mocan*, mountaineer, Magy. *mokany*; *iamea*, pillage, Turkish *iahma*, as we might naturally expect; *isprava*, action (Slav); *sobor*, church council, Slav. church or minster; *ulitsa*, street, Slav (*strada* also used); *vreme*, time (Slav).

The Latin portion of the vocabulary exhibits certain peculiarities.

1. The 'k' sounds are constantly replaced by labials, as: quatuor—*patru*, noctem—*noapte*, aqua—*apa*, pectus—*pept*, doctor—*doftor*, lacte—*lapte*, lingua—*limba*.

I need hardly remind philologists of the Aeolic Greek *petores*, and the Indian and Persian *ab*.

2. *R* is put for *l*: *mel-miere*, *caelum-cer*, *volare-sbura*, *violavioré*, *palumbes-porumbel*. Sometimes for *n*: *fenestra-fereastră*, *anătem-rafă*, and conversely *serenus-senină*, *magnus-mare*.

We proceed to the grammar. Here we are met at the outset by a remarkable peculiarity. Like other Romance languages, Rouman has a definite article, though Latin has not. This article is the Latin *ille*. But instead of being placed before, and separate from, the noun to which it refers, it is placed after it and joined with it; a peculiarity which belongs to Scandinavian (Icelandic, Swedish, and Danish), to Bulgarian, and to Albanian among the Aryan languages, to Basque among the Turanian, to Chaldee and Syriac among the Semitic. The idiom is probably derived by Rouman from the ancient Dacian. The neo-Roman had his choice between *illum caballum* and *caballum illum*. The Frenchman, the Italian, and the Spaniard chose the first—*le cheval*, *il cavallo*, *el caballo*—the Rouman the second, *calul*. This peculiarity is, as I have said, most likely an inheritance from the earlier Dacian, or Thracian, or Illyrian tongue: the Rouman, the Albanian, and the Bulgarian preferred *horse-the* to *the horse*, because their Thracian ancestors did. But why the Thracians did so when the Greeks did not; why the Syrians said *susyo* when the Hebrews said *hassus*; why the Danes say *Hesten* when the Germans say *der Hengst*, and we *the horse*, is a philological mystery—perhaps a psychological one. Those who are fond of referring everything strange in antiquity to that important people who have come to our notice within the last ten years—I mean the Hittites—are inclined to look on the postpositive article as a peculiarity drawn from the children of Heth. Possibly, they say, the Thracians, Illyrians, Dacians, and Phrygians, and the Pelasgic race, may have been portions of the great Hittite family. But then we do not know to what division the Hittites belonged: were they Aryan, or Turanian, or Hamite? (If the latter, they probably did not use the postpositive article.) And how came they to affect Aramaean, and Slavic, and

Scandinavian? We must not attempt an answer till we can read more of the Hittite runes than the name on the boss of King Tarkondemos.

Another peculiarity of Rouman is the frequent change of vowels in the inflexion of nouns. This is not Latin, but German, or perhaps Albanian and Bulgarian. So we have *floare*, plural *flori*; *negro*, feminine *neagra*, plural *negri*, *negre*; *cuventă*, *cuvinte*; *frumos*, feminine *frumoasa*.

A third grammatical peculiarity is one not unknown to Greek, Latin, and Italian, but very frequent in Rouman—a change of gender in passing from singular to plural. *Locus*, plural *loca*, *caelum*, plural *caeli*, are familiar to us, as are *il braccio*, *le braccia*; *il dito*, *le dita*; and some twenty-five more, in Italian. There is a still greater number of such heteroclites in Rouman. Many of them have the additional peculiarity of inserting the syllable *ur* before the final vowel of the plural. Thus we have *acu* (needle), plural *ace*, not *act*; *suflet* (soul), plural *suflete*, not *sufletți*; *pod* (bridge), plural *poduri*, not *podți*. In all cases, as in Italian, the change is from masculine singular to feminine plural.

The verbal inflexion is similar to the French and Italian. Rouman has an imperfect and perfect, *eî aram*, *eî araî* (I ploughed); it has also a pluperfect, which the others have not: *eî arassem* (I had ploughed). On the other hand, it has no future, conditional, nor perfect subjunctive, but forms these tenses, as we do, by an auxiliary prefixed to and separate from the infinitive. French, Italian, and Spanish append the verb *to have* to the infinitive to form future and conditional; *porterai*, *porterais*, *porterò*, *porterei*; but Rouman prefixes for the future the verb *voi* ('will'), *eî voiî purtă*; for the conditional a peculiar form of *avea*, *to have*, *eî așî purtă*.

I will allude to one more peculiarity only. The object, when a person, has a preposition prefixed to it, as is the case in Syriac. *J'ai vu le soleil* would be *eî am veđut soarele*; but *j'ai vu l'homme* would be *eî am veđut pe omul*.

From what has been said I think it will be gathered that in a philological point of view the language is extremely in-

teresting. It forms a sort of link between East and West ; and we learn much from the points in which it agrees, and those in which it disagrees, with its sister tongues. So far as history and ethnology can be illuminated by philology, I think its formation helps us a little in the understanding of the dark and confused pages of the early and mediaeval history of Eastern Europe. Of its literature but little can be said. It belongs to our own time almost exclusively. Certainly there is, besides the *Fragment* I have already spoken of, a hymn composed by Dositheus, Metropolitan of Moldavia in 1671, beginning thus :—

Limbele se salte	Let the tongue bound
Cu cantice 'nalte :	With lofty songs :
Se strige 'n tarie	Resound to heaven
Glas de bucurie !	A voice of joy !

But these fragments are few and far between. And yet the language may have a future before it. It is not without power ; its sound is pleasing, and therefore it is not unsuited for oratorical display, and it lends itself most readily to poetry. I may mention especially in this connection the name of Alecsandri. The Roumans themselves are exceedingly attached to their language, and perhaps I cannot conclude better than with a stanza from a popular poem by a native writer named Sion, in which this attachment is enthusiastically expressed :—

Mult e dulce și frumoasă
 Limba ce vorbim !
 Alta limbă armonioasă
 Ca ea nu găsim !
 Saltă inima 'n plăcere
 Când o ascultăm,
 Și pe buze aduce miere
 Când o cuventăm.
 Românașul o iubește
 Ca sufletul său :
 O vorbiți, scriți românește,
 Pentru Dumnezeu !

Very sweet and beautiful is
The tongue we speak :
Another tongue harmonious
As it we find not.

The mind bounds with pleasure
When we hear it,
And over the lips flows honey
When we pronounce it.

The Rouman loves it
As his own soul :
O speak, write in Rouman
For Heaven's sake !

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✓ THE EVOLUTION OF THE FAMILY.

By OSCAR BROWNING M.A., V.P.R.Hist.S.

WE live in an age when the theory of evolution is being applied to all the phenomena of the universe. It is natural, therefore, that we should attempt to explain the sequence of the various forms of government by this hypothesis. Political science, although it is a favourite study in America, is not much regarded in England. We are, perhaps, too much absorbed in political practice to believe in the reality of political theory. Still it is probable that, as democracy advances, and as the necessity of educating the masses of our population in politics becomes more imperative, political science will claim a larger share of attention. This science is divided into two branches, the one deductive and speculative, the other inductive and historical. The 'Elements of Politics,' by Professor Sidgwick, is perhaps the first attempt to treat the first division thoroughly and systematically in the English language. The writer essays, with more or less success, to trace every ramification of the perfect modern state, as it ought to be, based upon the theory of the greatest happiness of the greatest number. The second department has not yet been worked out, but there is no reason why this should not be done. Anyone who attempted it would have to separate the facts of government from all other social phenomena, and to seek to arrange them in such an order, proceeding from the more simple to the more complex, that he could arrive at some conclusion, more or less valid, as to the manner in which the state had been evolved and differentiated amongst human beings. Attempts have

been made to effect this in isolated parts of the whole field. The 'Comparative Politics' of Freeman are written with this end; Maine's 'Ancient Law' is a treatise on the evolution of certain parts of human society. But these writers have adopted a method which is not likely to lead to very satisfactory results. Freeman confines himself principally to the evidence of history, and Maine to that of Roman law. The conclusions of Maine have been invalidated by MacLennan, who has shown that, although some of the phenomena asserted by Maine to be universal are really so in rudimentary societies, yet the working out of them in detail, as exhibited in Roman Law, was confined to the Romans. Freeman also, in comparing Greek, Roman, and German kingship, and drawing illustrations from the existing *Landesgemeinden* of Switzerland, does not carry us very far in the path of generalisation, owing to the paucity and uncertainty of the evidence with which he has to deal. A modern school has therefore arisen which regards historical evidence as inadequate, and draws its materials from the ample sources of comparative anthropology. It rests upon the assumption that human nature is under all circumstances and under all conditions substantially the same; that there is less difference between the highest and the lowest types of men discoverable in the world than between the lowest men and any beasts; that man is a state-forming animal (*πολιτικὸν ζῶον*), as Aristotle called him more than two thousand years ago; that the creation of cities and governed communities is just as natural to men as the making of waxen cells to bees, or of dams to beavers; that political problems are very much the same all the world over, and that human beings having to cope with them are likely to solve them much in the same way; that the form of institutions depends, not on their antiquity in point of time, but upon the state of development which the particular community has reached which makes use of them. Therefore, it is said, that if we could obtain—which is extremely difficult—an accurate account of all the political institutions which exist in the world at the present day, we should have a collection of types

of all the most important institutions which ever have existed, and we should be able to arrange them in an order of probable sequence, so as to be able to infer how one type had been evolved from the other. This way of looking at things has revolutionised the study of historical political science, and with it the kindred science of law. We do not neglect the study of history ; indeed historical evidence becomes of greater importance than before. But we affirm that history alone does not afford us sufficient ground for the conclusions we wish to draw. The general practice of mankind as taught us by comparative anthropology enables us to make large generalisations, to trace the broad outlines of an all-embracing system. When we have laid this groundwork we are in a position to fit in our historical facts wherever they will go. Historical evidence does not lose, but gains largely by this treatment. Isolated pieces of evidence are enlightened and explained by the juxtaposition of cognate forms from unexpected sources ; and the fact that a particular race has acted in one recorded instance in a particular manner receives strong confirmation from the discovery that this particular action is in accordance with the practice under similar circumstances of the whole human race.

It was necessary to state this much, by way of preface, to show the method which I propose to adopt in dealing with the evolution of the family. I shall base my view of this evolution on what is known of the practices of rudimentary, but not necessarily ancient races. I do not wish to assert that the question of the evolution of the family is a very important matter of itself. We may fairly say that no political question can be considered of very great moment which does not in some way or other bear upon present or future political action, and that only those institutions are worthy of our notice which have left memories amongst those people of modern times, whose laws and customs are worthy of consideration. It would be rash to say that the earlier types of the family have left no such traces, but undoubtedly the main importance of the evolution of the family is that it is the

indispensable prelude and vestibule to the evolution of the state. Everywhere when we trace back the state to its earliest forms we find that it is based upon the family; that it grew by a natural process out of the family. Therefore, if we would understand the state, we must inquire how the family first came into existence.

The teachings of comparative anthropology point to a time when the principal characteristics of the modern family were entirely unknown. Aristotle describes the family as consisting of father, mother, child, and slave—we should still say that it consisted of the same elements, except the slave—and that in a condition of things where the names of father, mother, brother and sister, son and daughter do not exist, the family cannot be considered to be in being. Yet everything points to a very early community of this nature. Just as in early societies there was no property, either individual or personal, no personal responsibility, no possibility of personal individual contract; so there was no wife, no husband, no son, no daughter, no brother, no sister. Every woman was the wife of the whole tribe, no child knew his father, and if he knew his mother it made no difference; there was no distinction between the relation of brother and sister and that of cousin; there was a condition which some might call homogeneity, others promiscuity. I do not mean to say that this state of society ever had a real existence. No one conversant with the customs of rudimentary nations is likely to believe this. To decide exactly the state in which rudimentary nations live almost transcends the power of ordinary language. Language is only suited to express ideas which we are capable of forming, and the social conditions of rudimentary peoples are at once so fluid and so complex that it is difficult to make a statement about them which does not require to be so carefully guarded and qualified that it almost ceases to be an exact statement in the process. But we may assert that rudimentary societies tend to approach this condition, and that the further we trace them back the more we find that they tend to approach it. Now, at the

very outset, we are met with a difficulty. The most rudimentary of human beings most nearly resemble animals. Evolution asserts that the corporeal part of us is directly derived from lower animals, probably arboraceous apes. Shall we not, therefore, it is asked, obtain a better solution of our difficulty if we inquire into the social and family relations of animals? These relations are extremely difficult to determine. A book recently published, which has attracted a good deal of attention—Westermarck's 'History of Human Marriage'—deals very largely with these problems. He conducts a vehement polemic against the supporters of promiscuity, and asserts that the higher apes, from whom we are presumably descended, are not only monogamists, but in their isolated circle offer lessons of conjugal fidelity and domestic virtue which refined civilisation might do well to imitate. He also asserts, with perfect truth, what I have admitted above, that there is no absolute evidence that such a state of promiscuity either does exist, or ever has existed. But his whole contention is beside the point—we are speaking not of families, but of communities. It is quite possible that the earliest man, whenever he came into existence, lived with his wife and children in the innocence of a golden age, and that the traveller of those days might have found in the clearings of a primeval forest these isolated groups as self-contained, as contented, and perhaps as immaculate as our first parents in the Garden of Eden, or as any gorilla in the wilds of Central Africa. But it does not follow that when communities were formed, by whatever process, the same state of things continued, nor does Westermarck contend that monogamy is characteristic of communities of animals. Some sort of family probably preceded the community, but the community preceded the family as we know it, and that primitive community from which the family, as we know it, sprang possessed, or tended to possess, the characteristics which I have above described. The family, therefore, is not so much an evolution as a differentiation. The family gradually came into being by the recognition of distinctions

within the homogeneous community which were not in the first instance observable. This community, having little or no differences within itself, was separated from other communities who were settled around it by two great ties, blood and language. All members of the community either were, or feigned to be, of the same blood, descended from the same real or pretended ancestor. All, of course, spoke a language which was mutually intelligible, and which was probably different from that of every other community, however closely related.

We must now ask, how did this differentiation begin? It obviously took two directions, leading in one case to the family—as we understand it—in the other towards the state, that is, towards the existence of a government; for we must assume a time when nothing which could be called a government had an existence in the homogeneous community. In the first case, distinctions are recognised, first of old, young, and middle-aged, then of groups of relations, brothers and the most distant cousins being reckoned as undistinguishable. At last the mother becomes recognised, and receives honour and obedience as head of her family. Long after that, the father is known, and succeeds to a similar position. Or, taking the other line, the community acquires slaves from the fortune of war; the same war elevates individuals into nobles, partly as the reward of personal prowess, partly as the result of acquired wealth. When classes have thus grown up, and become consolidated, at last kingship comes into existence, and the state, or something resembling a state, is formed. It may be that the question as to which of these two lines of differentiation is the older admits of no decided answer. The evolution of human society in all its branches has followed no single or uniform course. It has always depended on two factors, which are never the same in any case: the character of the individual germ from which the community sprang, and the environment by which it was surrounded, cold, heat, or temperate climate, land, sea, mountains, rivers, friends or foes. A hundred differences in

the nature of these factors, and in their relation to each other, are the parents of as many divergences in the resultant organisms.

We will consider each of these lines of differentiation separately. In the systems of relationship existing in primitive communities we find that, whereas, as I have said above, the tie between the members of a community is always a tie of blood, relationship is always reckoned through women, and not through men. This custom is so widely spread, and is discovered among tribes so entirely different in origin, that it must have arisen from a fundamental tendency in human beings as such, and cannot have been derived by imitation from one to the other. It is found amongst the whole of the North American Indians, from the extreme north to the Natchez in Florida, amongst a large number of tribes in South America. It is found in Australia, in many islands of Australasia, in the Mariana Islands, in Fiji, and in the Tonga Islands, in the Caroline Islands, amongst the Singalese of Ceylon, in the islands of the Malay Peninsula, the Malays being at the present time the race which offers the richest evidence to the inquirer upon these subjects. It is common amongst many tribes in East Africa, in those south of the Sahara, on the coast of Guinea, in Loango and Congo, in Madagascar, and generally amongst the tribes of Central Africa, as shown by the recent explorations of Stanley and others. It existed without doubt amongst the Iberians, that ancient black tiny race which inhabited large portions of Western Europe before the arrival of the Aryans, fragments of which are found among the Basques, and in small conquered populations in Italy and Gaul in historical times. It has been asserted that it did not exist among the Aryans, but there are traces of it amongst the Romans, the Greeks, and the Germans, as well as among the Lycians, the Ionians, and the Etruscans. The scanty notices upon which this last portion of evidence is based derives great strength from the fact that the custom of tracing relationship through women is so widely spread elsewhere. Undoubtedly there are a certain number

of primitive races who trace their descent and relationship through males, but it may be asserted that whereas in historical times there is abundant evidence for relationship through females having passed into relationship through males, there is no evidence of the contrary process. It is therefore probable that even in these communities there was a system of this kind preceding that with which we are familiar. This relationship points to that primitive condition of homogeneity and promiscuity which I above stated to be probably the earliest condition of the human community. Monogamy or polygamy can only exist where the father is acknowledged the head of the family. In considering this system, which is conveniently known as the matriarchate, we must not suppose that a woman is regarded as the head of the tribe. This is never found in practice, and there are no traces of its having existed in prehistoric times. A man always stands at the head of the community, but he is not the father, but the mother's brother. It is to the maternal uncle that the love, reverence, and obedience which we consider as the natural rights of the father are really paid. The father does not properly belong to the family at all; indeed, he belongs to a different family, and sometimes stands in a hostile relation to his own children; or if, like women in ancient Rome, he passes into the family of his wife, as they did into the families of their husbands, he holds there an entirely subordinate position, which is often not better than that of a slave.

In the primitive homogeneous community, as there was no realisation of parentage, so there was no realisation of relationship. Among rudimentary tribes we find no word to express marriage; so also we find no words to denote the relationships which are common amongst ourselves. There is no expression for father, mother, brother, sister, uncle, or aunt; there are only expressions which denote classes of relationship. Before this period the only distinctions recognised were those of age. In a tribe there were the old, the middle-aged, and the young, groups more carefully distinguished than the same

divisions amongst ourselves, guarded by special ceremonies, and invested with special privileges. The senate of Rome, the *γερονσία* of Sparta—each of them assemblies of old men—were so denominated, not as by a nickname, but as composed of certain people who possessed as we should the franchise or competence of belonging to them. Let us take two examples of this class relationship from two very different races, who as far as we know have nothing to do with each other—the Sandwich Islanders and the redskins of North America. Among the first we have one word denoting all relations, male and female, above the father up to the great-grandfather and the great-great-uncle. Another word denotes the father, the paternal uncle, the father's brother-in-law, the mother's brother and brother-in-law, the grandfather's brother's son. One word represents mother, mother's sister, and sister-in-law, father's sister and sister-in-law. Another represents son, sister's and brother's son, the son of a brother's son or daughter, and of a sister's son or daughter, the son of a mother's sister's son, and of a mother's brother's son. The same word denotes wife, wife's sister, brother's wife, wife's brother's wife, and the wife of all first cousins, whether on the male or female side. Thus every sister is wife of her brother-in-law, and the brother-in-law is husband of his brother's wife and the father of his brother's children. A wife has husbands and sisters-in-law, but no brother-in-law; a man has wives and brothers-in-law, but no sisters-in-law. Cousins have the same name as brothers and sisters. Therefore, in the Hawaian system, as expressed in the Hawaian language, the notion of marriage is entirely absent. The child is not related to his father or his mother, but with a group of relatives; every child has several fathers and several mothers. Of course I do not mean to imply that any system of relationship corresponding to this has been found in these islands, but language shows that some such system did once exist. Amongst the redskins the same word denotes father, father's brother, father's brother's son; the same word mother, mother's sister, and mother's sister's daughter; the same word brother and cousins; the

same word son and nephew. Similar names for relationships are found in Tamil. Nicolaus of Damascus gives us an account of the Galactophagi, whom he represents as practising a community of wives and property. Amongst them he says that the elderly people are called fathers, the younger sons, the middle-aged brothers, thus showing a combination of the age classes and the classificatory relationships.

I have shown how the primitive homogeneous horde develops the idea of parentage (in the first instance motherhood), and then certain elementary notions of kinship. But from an early period the weak conceptions of relationship which distinguish communities in this early stage is still further shown by the inclusion of persons whom we should not now regard as belonging to the family at all. Sometimes whole tribes entered into this kind of connection with other tribes, and the tie once formed was regarded as stronger than that of blood. Examples of this are found among the Afghans, in the Jewish clans of Medina in Arabia, and amongst the southern Slavs. Individuals are also admitted into the family in the same way, although sometimes in a subordinate position. The custom of adoption, so common amongst the Romans, is found in many other races of an entirely different origin; for instance, amongst the redskins of North America, the Greenlanders, the Malays, and the Ainos of Japan. The object of adoption is to prevent the family from dying out and the family sacrifices from being interrupted. We find this to be a potent influence amongst the Galla tribes of Central Africa. Such pains are taken to insist upon the idea that the adoptive child stands in every respect in the place of a real child, that the circumstances of natural birth are sometimes imitated in the ceremonies of adoption found in various countries. Another most curious method of artificially extending the family is found in what we may call blood-brotherhood; that is, the formation by solemn ceremonies of an artificial tie of the closest and most intimate nature between two individuals. The ceremonies attending it are described in many travellers' stories, and are very various and amusing.

The relationship takes different forms in different countries. In Melanesia this tie between two young men is regarded as a marriage, and they are called man and wife. They are bound to endure the same dangers, to defend each other when attacked, and if necessary to die together. If either of them wishes to marry, the tie between them must first be formally dissolved. A practice of the same kind exists amongst the Southern Slavs, and there are abundant traces of it among the early Germans. In Central Africa the ceremony of blood-brotherhood, repulsive and disgusting as it often is, is valued as the principal defence of the traveller against treachery and attack. Amongst many other peoples besides the Polynesians, it is regarded as a hindrance to marriage. On the other hand, it is not unfrequently followed by community of property, and even community of wives. In other cases the blood-brothers inherit from each other as a matter of course. The different methods by which this relationship may be brought into being are worth mentioning. Most commonly there is a kind of treaty. Sometimes it is the work of a moment. Among the Southern Slavs if a man finds himself in a great difficulty, he will turn to the person standing nigh to him and say, 'In God's name be my brother!' If the person called on refuses, he loses all claim to respect and consideration. A similar custom is said to be found among the Wahambas of Eastern Africa. An exceedingly common method found in all kinds of unrelated tribes in Madagascar, in South Africa, amongst the Albanians, Letts, and Magyars is the practice of drinking each other's blood. The representation of this ceremony occurs in one of Wagner's operas. This is in certain cases accompanied by an oath, which is written down and drunk with the blood. Occasionally a few drops of blood are mingled with a drink consisting of fresh and salt water, palm wine, and other ingredients. It is natural that when Christianity began to prevail the tie of artificial brotherhood should be enforced by religious ceremonies. The Montenegrins are said to have three kinds of artificial brotherhood. The first, which is of the weakest nature, is

formed by one man kissing another three times on the cheek ; the second has been alluded to above, and is formed by calling for help in the time of need in the name of God and St. John ; the third is formed by receiving the sacraments together in church. This last ceremony makes the two men brothers for life. Another form of artificial relationship is foster brotherhood, the tie formed by two persons being educated together as children : this is found amongst the Circassians, the Indians of the Himalayas, the Persians, and the Greenlanders. In the ancient laws of Ireland we find a similar relationship recognised between tutor and pupil. In certain cases the foster relationship supersedes the real relationship entirely. Yet another form of artificial relationship is milk-brotherhood, forming a close tie between the wet-nurse and the infant. In some cases the power of this connection is so strongly felt that a child is nurtured from the breast of every woman capable of giving it nourishment in turn, in order that the unity of the tribe may be strengthened. The milk tie is regarded in Moslem law as a bar to marriage, just as the tie of godfather and godmother has been sometimes so regarded in the Catholic Church.

In our own times the existence of a family is inconceivable without father, mother, and children. But this was not by any means always the case. We find in rudimentary civilisations families which acknowledge a mother only, and families which acknowledge a father only. As has been stated above, the latter is almost undoubtedly the primitive form, as we have numerous instances of the matriarchal family passing into the patriarchal, but none of the reverse process. It is interesting to trace the process by which the family, which, as we have seen, is differentiated from the homogeneous community, again becomes in itself a community in which the family can only be discerned by careful inspection. In the hill tribes of the Neilgherries the family comes entirely to an end at the death of the father, and separate families of the sons remain completely independent of each other. But in most cases both the matriarchal and patriarchal families hold

together and form a house community. Communities of the matriarchal type are found among the Malays of Sumatra. We find in their dwellings the mother and her children, the maternal uncles and aunts, the grandmothers, the maternal great-uncles and aunts. The name of these communities indicate that they spring from one mother. The head of the family, as we have before stated, is the maternal uncle, the *mamag*, and the head of this house community is the eldest of the *mamags*. As the family is increased by the birth of each successive child, an additional piece is built on to the original house, and this is continued until the number of inhabitants becomes too large, and the family is obliged to split up into two. The tie, however, continues to subsist between these two communities, and they are subject to the same head. When Kamtschatka was first explored by the Russians, large buildings called *ostrogs* were found, holding from 100 to 300 persons, having reached these dimensions from the germ of a single family. The old custom was that the daughters did not marry out of the *ostrog*, but the husband had to leave his *ostrog*, live with his wife's father, and act as his servant. Far more common, of course, are house communities on the patriarchal basis. Such are the joint family of the Hindoos, the Irish sept, the Roman gens, the Greek *yévos*, the German house communities described by Cæsar as 'gentes et cognationes hominum.' In Italy we find similar joint families existing in the middle ages with a *reggitore*, or male head, and a *massara*, or female head. Similar, too, in mediæval France were the *communautés* of serfs under a feudal organisation. Among the South Slavs we find traces of similar organisations. Relatives live together frequently to the second and third, sometimes to the fourth and fifth degrees, making up a number of fifteen to twenty-five, and sometimes of fifty or more. These communities disappeared in Styria, Carinthia, and Carniola two hundred years ago, and are dying out every day in Croatia, Servia, and Bulgaria. In those parts of the Indian Archipelago where the patriarchal system prevails we find that the son upon marriage does not leave

his father's house, but merely builds an additional room. Among the Dyaks of Borneo we find two hundred and fifty or three hundred people living in one house. A similar custom is found amongst the Kabyles of Algeria. It is, indeed, very curious to find in different parts of the world enormous houses which afford lodging to a whole community, reminding us of the habitations of animals, such as bees or rabbits, which are enlarged by a similar process. Indian villages are found consisting of one or two colossal buildings, five or six stories high, rising in terraces, and giving shelter to three or four hundred persons. Mexico, Yucatan, and Guatemala were once full of buildings of this kind. The Iroquois erected large houses, over a hundred feet long, in which ten or fifteen families found habitation, and lived together from the chase. Buildings have been found in Nootka Sound sufficient to contain eight hundred persons. It is not, however, certain that all the inhabitants of these house villages descended from the same ancestor; they may be conglomerations of villages brought closer together for convenience or defence. I have now, I hope, sufficiently shown how the idea of relationship differentiates itself out of the homogeneous community, how when it has so developed it receives accretions of what we should not now term relations, and how the family when it comes into existence tends to grow into larger groups. But I have only lightly passed over the most important relationship of all—that of marriage—and I must ask your indulgence in dealing with a very difficult subject. Evidence seems to show that when once the human community was formed, marriage, in the strict sense, ceased to exist, and that, just as everything was held in common, land, personal property, and children, so women were also held in common, or perhaps attributed, like other property, to the possession of the head of the tribe. We find in many rudimentary nations that there is scarcely anything which can be called a marriage ceremony, that there is frequently no word to express marriage, and that the earliest marriage ceremonies are merely symbolical of two people coming together to keep house. Also

there are numerous examples all over the world of temporary marriages, existing either for a definite period, or until the pair have made a trial as to whether they will suit each other or not. In some cases the marriage tie lasts only until the first child is weaned, sometimes until a certain number of children have been born, sometimes until it is ascertained that the wife is likely to become a mother. We also have cases in which the marriage tie is at first of a lax or provisional nature, and is afterwards superseded by one of a more permanent nature. In some instances the very fact of the birth of the first child sets the seal upon the union. Divorce—if it indeed can be called by that name—is made very easy in rudimentary societies. Indeed, the married pair separate whenever it pleases them to do so. Even the sale of wives, which in French legends is always attributed to the typical John Bull, is not without examples in other places. It may, of course, be urged that these lax relations do not represent a primitive condition, but are marks of a state of degeneracy. This view was, if not held, at least urged by Sir Henry Maine in answer to MacLennan. But there does not appear to be much value in this suggestion. I have said above that a condition of monogamy amongst isolated family groups is not inconsistent with the adoption of a different system as soon as mankind began to live together in communities. But if these communities had passed into the laxer state by degeneracy, there would probably be some trace of their former condition, either in language or in symbolical ceremonies. Also it is found in the physical, moral, and the social world that degeneracy leads back to a previous state of existence. It is not consistent with experience that a man or a community fall into a lower state which has not been at some time or other the normal condition of the individual or the community. Therefore, even degeneracy itself would be evidence of what a previous condition had been like.

There are also other phenomena, some of which are extremely unpleasant to mention or to allude to, which seem

to show that the growth of individual property in a wife was not only gradual, but was regarded as a lesion of the rights of the community at large. We are familiar with the socialistic maxim, *La propriété c'est le vol*. We are, happily, not so familiar with the proposition, *Le mariage c'est le vol*. Still, from the historical point of view, one statement is probably as true as the other. Statements with regard to this matter have been collected by Bachofen in his epoch-making work 'Das Mutterrecht,' the book which has given the strongest impulse to the kind of inquiry in which we are now engaged. Herodotus makes statements about the Massagetes, which are confirmed by the geographer Strabo, about the Nasamones and the Ausæ, which point to a time when individual property in wives was unknown. Solinus says that the Æthiopian Garamantes have no notion of private marriage. Mela, Pliny, and Martianus Capella say the same. Nicolaus of Damascus says that amongst the Liburnians all children are reared in common up to the age of five, and only after this period are divided amongst their putative fathers. The same writer says of the Galactophagi, the milk-feeders, 'They possess all their property and their wives in common.' Therefore they call all elderly men fathers, the younger sons, and men of their own age brothers. This statement is important, as it not only confirms the analogy I have indicated between community in land and in women, but it shows how this primitive state of things was connected with the general homogeneity of the community, a homogeneity which recognised no differences except those of age. This evidence is all derived from ancient writers, but it might be supplemented with a great wealth of illustration from existing races. The Jeehurs of Oude, the Jolah on the island of St. Mary in America, the tribes of Matto Grosso in South America, the Lubus of Sumatra, some of the Dyaks of Borneo, all afford examples of this condition, not to mention the copious evidence adduced from ancient Arabia by Wilken and by Professor Robertson Smith. We must not judge these conditions by our own

standard of morality. All writers are agreed that monogamy is the highest form of marriage, that family life as we understand it is the crown and the glory of the evolution of the family, that as races progress in civilisation the family tie becomes more strict and more sacred, and that the family as we know it is the only certain basis of social order. But just as we regard the breach of the marriage tie between two individuals as immoral, so do primitive communities regard the creation of it as immoral, because it is a wilful appropriation by an individual to himself of that which belongs to all. It is analogous to a violent seizure of the common land as a theft from the public treasury. We cannot accuse such tribes of adultery or incest, because no such ideas exist amongst them. The law has not as yet made them conscious of sin, because it has not as yet come into existence. I will not mention in detail the evidence alluded to above, which refers a number of curious customs to a state of transition which is gradually leading up to marriage. I will only say that there are nations all over the world, in ancient and modern times, in which prenuptial unchastity is regarded not only as permissible, but as a duty, and even an honourable and sacred duty. It is obvious that the marriage connections of which I have hitherto spoken are all what is called *endogamous*, that is, confined to the tribe, or even to the family. How strongly this preference for strict endogamy was ingrained is shown by the special and sacred character given to marriage between close relations. Zeus, as we know, was both the brother and the husband of Hera. Among the Persians, Kambyses married his sister Atossa, Artaxerxes his two daughters, and Kobad I his sister Sambyke. It is said that unions of this kind are found amongst the modern Persians. We find the same thing amongst the Hindus, in the islands of Oceania, and in ancient Wales. But it is also the fact that side by side with the principle of strict *endogamy* there exists an equally strict principle of *exogamy*, that is, an absolute prohibition of marriage between individuals of the same family or even the same tribe. Various explanations

have been given of the origin of this custom. Some have attributed it to the advantages found by experience to belong to the children of a mixed race; others have thought that, as capture was undoubtedly a very early form of marriage, so the capture of a wife from an alien tribe was regarded as an honourable exploit, and, therefore, became imitated and fashionable. Connected with exogamy, and, in the minds of some inquirers, indissolubly connected, is the practice of polyandry, that is, of one woman being at the same time the wife of a number of husbands. I need not go into detail upon this subject, which is fully described in Maclellan's 'Primitive Marriage.' I will only say, in passing, that in my opinion Maclellan greatly overrates the importance of the practice and exaggerates its universality. It is now believed to be only the product of special circumstances, the exact converse of those which have, amongst other communities, led to the practice of polygamy. Polyandrous marriages are, however, I believe, always exogamous.

I must not omit altogether two other forms of transitional marriage, one of which, from being mentioned in the Bible, is far better known than the other. I mean the practice of boy-marriage and the practice of the levirate. Boy-marriages are found in places as far apart as Southern India and the Caucasus. Among the Reddies of Southern India a young woman is married to a boy of five or six, but she lives with one of the boy's relatives, often with the boy's father, and any children that may be born are considered to be the children of the boy. In the Caucasian tribes the actual husband of the boy's wife is always his father, and the children are divided between them. The traveller Coxe relates that he found this practice in Poland, and it still exists as an abuse in some parts of Russia, but it is in these cases almost certainly a survival of a common practice. The levirate is the well-known Hebrew precept that if a man dies without children, his brother, the 'levir,' or brother-in-law of the widow, should take her to himself and raise up children to represent the race and name of his brother. This is found

in many other places besides ancient Palestine. In the Carolines the duty is reciprocal to both husband and wife, the widow having to marry her brother-in-law, and the widower his deceased wife's sister, thus making obligatory a connection which is forbidden amongst ourselves. Another very curious practice well known to us from the classical story of Hypermnestra and Lynceus, when the fifty sons of Ægyptus married the fifty daughters of Danäus, is the group marriage, in which a whole family of brothers are wedded to a whole family of sisters—an arrangement which would, I suppose, be quite legal amongst ourselves, and is sometimes found on a limited scale.

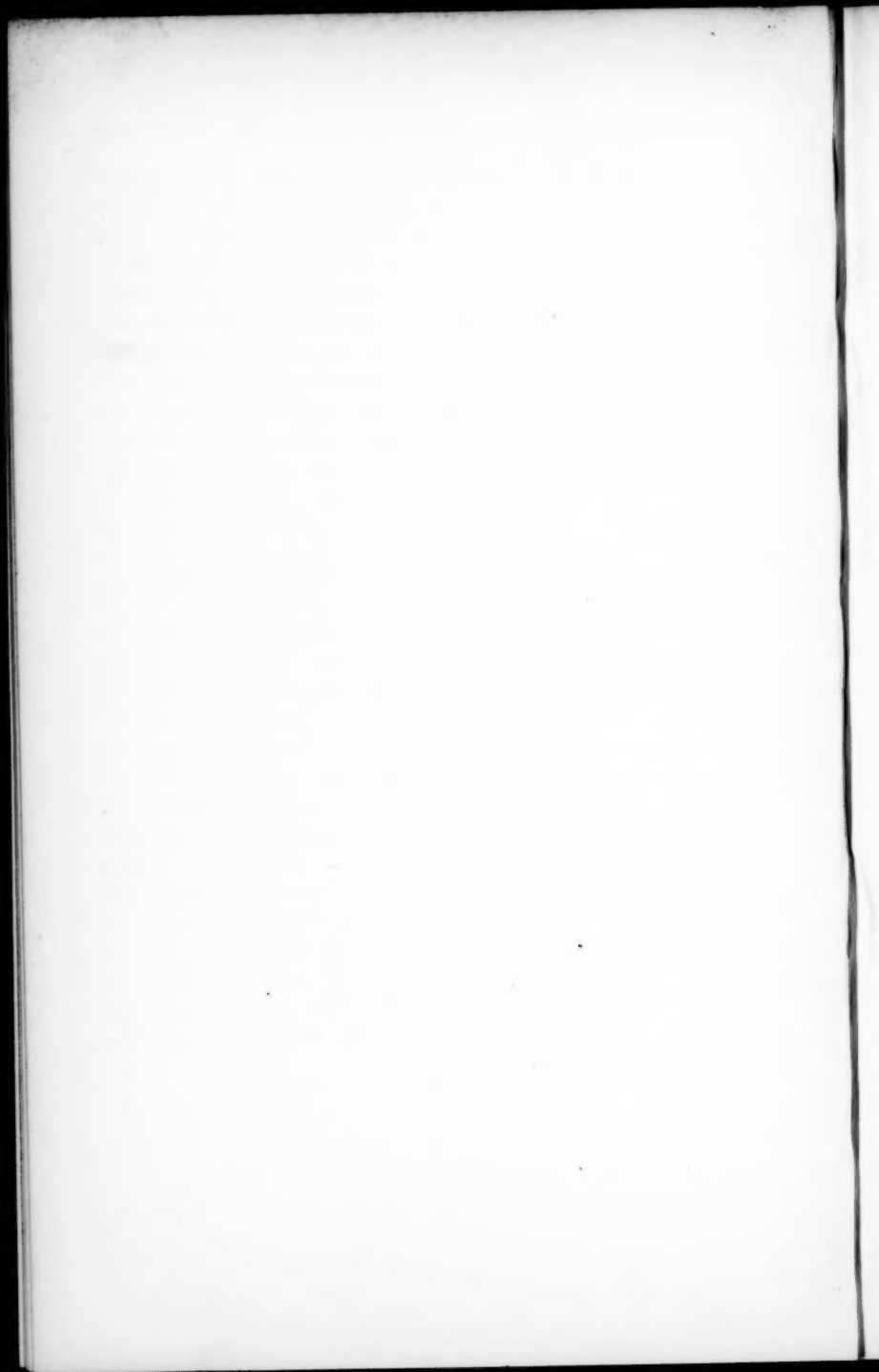
It has, indeed, been supposed that the levirate is a survival of the group marriage, and was occasioned by the sentiment which underlies it. MacLennan believes that the first recognition of fatherhood began with the levirate, and therefore the first practice of monogamy; others are of opinion that monogamy might be a natural result of capture; but it is more probable that it arose from the development of a proper pride amongst women themselves, and that a woman of high rank and character would not suffer her place to be shared by others. It is certain that, when once established, the great advantages accruing from it would cause it to supersede all other forms of union. It is curious to trace the effects which the practice of exogamy has had upon other forms of social relationship. A custom exists in many tribes which forbids persons nearly related to each other to see each other or to have anything to do with each other. In some parts of Ceylon a father is not permitted to see his daughter, or a mother her son, until they have reached their majority. Amongst some Mongolian tribes the father-in-law must avoid the society of his daughter-in-law. In other tribes the son-in-law must never see his mother-in-law, or even mention her name. In the Fiji Islands brothers and sisters, cousins on the father's side, fathers-in-law and sons-in-law, mothers-in-law and sons-in-law, brothers and sisters-in-law are not allowed to eat, or even to speak, with each other. Similar customs are found in parts of

Australia, in India, amongst the Dyaks of Borneo and the Brahmas of West Africa. The members of a family into which a man or a woman is about to marry are bound to avoid him or her from the moment of the engagement. Amongst the Somali it is considered a sin to see your mother-in-law, and even a still greater sin for a mother-in-law to allow herself to be seen.

From what I have said we see that marriage amongst rudimentary nations is not a matter of individuals but of communities. In all other departments of life it is only by slow degrees that the individual emerges out of the community. The community is the earliest form of society in which men come together, and as long as the existence of the community as such is the predominant preoccupation of its members, so long do the rights of the community overpower, and indeed annihilate, the rights of the individual. This kind of feeling, which has few if any traces among ourselves, survives in some shape even down into very advanced forms of civilisation. The Greek *πόλις*, at once the city and the state, made in many respects claims which are similar to that early community of which I am speaking; the individual would not exist outside the community. The *ἄπολις*, the cityless man, was an outcast and a pariah, with no legal and no social rights, with no claim either to protection or to happiness. Of course in Athens many individual rights of property and of marriage were well developed, and Grecian history supplies us with some of the strongest personalities which are to be found in history. But the general idea of the supremacy of the race community over its component parts is still the predominant idea of the *πόλις* in its supremacy over the citizens. It is not until the idea of the importance of the race community has entirely disappeared that modern marriage, the free union between male and female by mutual consent, can be accepted as the typical marriage of the human race.

I have now, I think, traced the development of the idea of the modern family in its main outlines from the condition of the

homogeneous horde with which our ancestors in all probability began. Want of time has compelled me to pass over many side lights. I might have shown how the restrictions upon marriage and the compulsion to marriage gradually became less as the necessity of preserving the continuity of the family or the community became less imperious. I might also have traced in its various developments the question of marriage by capture, showing how, as soon as endogamous marriages were discredited, it became the most honourable and eventually the sole method of procuring a wife; how it was afterwards changed into a real or assumed purchase, and how traces both of capture and of purchase have survived until our own day. I might also have traced the development of marriage ceremonies, and their significant bearing on the theories of marriage held at different times. It is, for instance, interesting to see how the marriage ceremonies of the Greeks and Romans imply these separate stages: the separation of the bride from the hearth of her father, the leading her to the hearth of the bridegroom, and her reception into the family worship of her husband. The last was typified in Rome by the *confarreatio*, the breaking together of the sacred cake, the most sacred form of sacrifice offered by the Romans to the gods. Indian ceremonies of marriage point to the same idea. I might also have traced in greater detail the development of hindrances to marriage, showing the curious forms which the recognition of prohibited degrees have taken in ancient and modern times. Perhaps this point will be treated of by others. I should myself like at some future time to lay before you some considerations as to the gradual steps by which the homogeneous community out of which we have seen the family evolved becomes transformed into something which we can call a state.



THE PUBLICATION OF THE GASCON ROLLS
BY THE BRITISH AND FRENCH GOVERN-
MENTS, CONSIDERED AS A NEW ELEMENT
IN ENGLISH HISTORY.

By PROFESSOR MONTAGU BURROWS, R.N., F.S.A., V.-P.R. Hist. Soc.,
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I NEED hardly explain to this Society what the Gascon Rolls are, nor why their publication is a matter of importance. A very few words on these two points must, however, accompany the remarks which I propose to make on the reasons why their publication has been so long delayed, and on the course of events which has at last issued in their being brought to light.

The Gascon Rolls, as we all know, contain the registered Acts of the English King's Court of Chancery concerning Aquitaine, dated, for the earlier part, chiefly from Bordeaux, the official centre and capital of the provinces included under that name. These provinces, brought to Henry II., just before he became King of England, by Eleanor, Duchess of Guienne, were most frequently spoken of under the latter name, which indeed was generally held to designate the whole of the English provinces from the Loire to the Pyrenees. After King John had lost Normandy and its dependencies, and Henry III. had failed to keep or recover Poitou, the name of 'Guienne' came to be restricted to the actual province; and Gascony also for a long time meant nothing more than the well-defined province which owed its name to the Basques. But after the temporary conquest of the Principality of Aquitaine (so called after the Peace of

Bretigni) by Charles V., and the reduction of the English possessions to little more than the neighbourhood of the great seaports of Bordeaux and Bayonne, the term 'Gascony,' of which the capital was the city of St. Sever, always faithful to the English, came to be the usual appellation of what was left of the English kings' inheritance. It remained so more or less during the fluctuations of the Lancastrian reigns, and thus the Rolls were naturally styled and are known now as 'The Gascon Rolls.' They are, however, concerned with all Aquitaine, and record the transactions of two centuries, beginning with Henry III.'s war in France in 1242, and ending in 1460. The records of the previous century, including the reigns of Henry II., Richard, John, and the earlier half of Henry III.'s, are not found in these Rolls, nor have they been discovered elsewhere. It has been supposed that they were not kept in any central dépôt, and so came to be dispersed, but it is not wonderful that they should have been lost in the vicissitudes of the English Rule in Aquitaine. At any rate the presence of the last-named king, accompanied by his English officials, and the re-settlement of affairs in the provinces, begins a new order of Records, those which we now possess.

It is during the presence of Henry III. and Edward I. in Guienne that we find in the Rolls numerous letters from those kings on various subjects, interspersed promiscuously with every species of official document. Some, if not all, of these letters have been extracted by Rymer. Not a few of the Acts, speaking generally, affect England directly, as for the time the Sovereign of a petty Empire was governing his realms from his provincial capital. Perhaps in our present imperfect knowledge of the Rolls—for they can only be really known to a few experts—the best idea of their variety and importance is conveyed in the Report of the Marquis de Bréquigny, who examined the whole series immediately after the Seven Years' War, and copied several thousands of the documents.¹ 'Suffice it,' he says, 'that these Rolls furnish for general history a multitude of Acts relative to the differ-

¹ *Mémoires de l'Académie des Inscriptions et Belles-Lettres*, vol. xxxvii.

ences between France and England from the time of St. Louis to that of Henry IV. ;—Acts relating to ecclesiastical history, titles of grant or confirmation of privileges granted to the churches and monasteries of France which had formerly acknowledged the King of England as their sovereign ; papers on the particular history of the provinces ; a numerous collection of documents concerning Normandy, Brittany, a part of Flanders and Picardy,—Guienne above all, which then included the whole part of France which lies between the Loire and the Pyrenees ; the foundation, growth, municipal laws, revolutions, sometimes the destruction, of their towns, castles, forts, villages ; and even exact lists of different orders of magistrates, genealogies of families, and a quantity of memoranda concerning their descent, alliances, distinctions, and services.'

Thomas Carte, who had preceded M. de Bréquigny by more than twenty years in exploring the archives preserved in the Tower of London, uses much the same language. 'There is scarcely,' says he, 'a town in all Guienne which will not find among these Acts the charter of its incorporation, and other charters for the confirmation of its franchises, the augmentation of its privileges, and the grant of its lands. There are few religious communities in these provinces which will not find documents granting their lands, revenues, exemptions from certain imposts, and other advantageous privileges.' So also, he proceeds to say, with the nobility of the provinces.

'The Gascon Rolls,' says M. Francisque Michel,¹ 'possess an unrivalled variety and importance. They are a rich and inexhaustible store of materials for the general history of the two countries and the biography of the persons they notice. Not even the humblest class of the society of the times fails to find a place.' And M. Langlois observes that 'they constitute a well-spring of the first order for the history of English administration.'

These testimonies to the unique value of the Gascon Rolls might be largely multiplied. I say 'unique' because,

¹ Preface to *Rôles Gascons*, tome i.

though a Gascon document may here and there find the light, these Rolls alone afford the material for anything like definite and fruitful research. They are as important for the historian as for the antiquary, for England as well as France. When they are once published they will by degrees make a sensible change in the histories of France and England as at present accepted. Indeed it is impossible to have a better proof of their value with respect to the English Rule in Aquitaine than the silence upon that subject which the most cursory reader must have observed in the histories of both countries. By a sort of common consent it has been omitted on both sides of the Channel, even in professed memoirs concerning provinces so long held by the English. If the idea of putting that Rule of three centuries into its proper historical place has ever been entertained, it has been nipped in the bud by the practical inaccessibility of the Rolls. And yet, if one thinks for a moment, if one only glances the eye over Carte's Catalogue, it is impossible not to see that the relations of the Gascon provinces with the country of their 'Roy Outremer,' as they called their English lord, produced contact on so many points, especially with regard to commerce, wars, and alliances, that not only the political, but even the constitutional history of both countries cannot possibly be understood without taking it into account.

Let me expand a little the above remark on the value of the Rolls for English history, as distinguished from their merely antiquarian value, and especially on the constitutional side of English history. It never seems to have struck our able writers on this subject that the English Rule in Gascony was an important factor in constitutional history, or even a factor at all. For this they cannot be blamed. The materials lying hidden in the Gascon Rolls, the only possible materials, had not been brought to light. Those who, like Hallam, set the fashion in treating the subject—only too faithfully followed ever since—merely regarded the Royal Provinces in south-western France as personal and very troublesome appendages to the Crown of England. The almost perennial

struggle between the two countries, which grew out of the tenure of these provinces, was nothing in their eyes but an indication of the rivalry of jealous and combative monarchs. It was to be deplored and despised for the benefit of posterity; it was to afford a warning in the sense of Dr. Watts' hymn:—

Let dogs delight to bark and bite.

Did not these shameful and unnecessary wars cost the lives of thousands upon thousands of human beings? Did they not shockingly devastate France and corrupt England? Did they not lavishly waste the hoarded treasures of national exchequers? And was not the final expulsion of the turbulent and aggressive English a grand deliverance? Was it not a judicial chastisement of the self-willed and sanguinary policy pursued by the Plantagenet kings? Was not the chivalry which found its highest expression in these wars, as we see it embalmed in the romantic pages of Froissart, a mere childish efflorescence of a semi-barbaric age? This is the view of English history which has in modern times almost universally prevailed.

It is a common failing to exaggerate the importance of any fresh contribution to history. But it is quite possible, to say the least, that the publication of these Rolls may have some effect in righting what I for one consider to be a wrong in this estimate. When it is once clearly perceived that the exclusively personal aspect of the Plantagenet sovereignty over Aquitaine was passing away from the English mind after the reigns of John and his feeble son, that a new feeling of national responsibility was beginning to exercise some influence in the reign of Edward I., and that by the time of Edward III. the nation had learnt to take up the quarrel as its own, when, I say, these things are duly considered, the effect of that national sentiment upon the internal affairs of England will perhaps be more correctly judged. The repeated calls upon Parliament and upon the clergy for supplies will not be condemned as mere tyrannical and

blamable acts, but as a just claim upon the English people to fulfil obligations which they were gradually learning to admit. They will discover what an immense place these Provinces held in the English national system, what numbers of Englishmen were employed on this service in various ways,—so that there was scarcely a family of the slightest importance which was not at some time or other concerned in Gascon affairs, many of them continuously. To a very much smaller but still appreciable extent, they will find Gascons employed in the public service of England. They will observe that the development of mutual interests in the sea-separated parts of the little empire was coincident with the rise of the English Parliament, and will discover a connection between that development and the growing ideas of Parliamentary representation. The general progress of the Constitution will connect itself with these mutual interests, and their influence upon the dynastic revolutions of the fifteenth century will receive at last the attention it deserves.

In short, as the whole tone both of constitutional and political history may be reasonably expected to undergo a change, so, it may be added, will it become much more intelligible. Neither kings nor people will be looked down upon with so much lofty compassion for their supposed errors, nor their undoubted sufferings be regarded as a deserved judicial punishment. The Plantagenet dower will cease to be regarded from the vulgar view of mere economy. The English hold upon it will cease to be considered a mere question whether revenue covered expenditure; but it will be asked whether it was not right to recognise honourably such far-reaching obligations, whether a splendid field for the commercial enterprise of the sea-divided subjects of English royalty ought not to have been kept open, and whether the influence of England upon the Continent ought not to have been maintained at the height to which the country had been accustomed since the days of William the Conqueror.

Such considerations will then perhaps carry their due weight in estimating the events of later English history.

The Tudor dynasty, in extending the continental position of England, will be regarded as resuming rather than initiating an Imperial policy ; and the Stuarts will take their place as delinquents in suffering it to be eclipsed. The Hanoverian House, in founding the modern British Empire, will be credited with an 'expansion of England' which was by no means a novelty, in comparison with which all her previous history has been of trifling importance, but the restoration of an old position, a movement which can only be understood by the most careful observation of the whole of the previous events which led up to it.

Nor will our estimate of the honour and glory due to France for the performance of her part in the prolonged struggle be lowered by a full understanding of the difficult task which fell to her in the later Middle Ages. It was the indisputable interest and duty of that great people to clear themselves, whenever an opportunity should occur, of the terrible incumbrance which the marriage of the Duchess Eleanor had laid upon France. Without justifying several of the incidents of the struggle, it may at least be said that the French Suzerain of the English Provinces could not but be expected to take full advantage of the weaker periods of his vassal's government, just as the vassal with equal adroitness used the weakness of his Suzerain to strengthen his own anomalous position. There were rights and wrongs on both sides, and each perceived the merits of his own case with the same onesidedness as men have in all times exhibited. There was the amplest justification for the persistent attempts of the English to hold their own ; and though we can now see that they were sure to fail in the long run, it would have been a very un-English proceeding to give their rights away without a struggle and without an equivalent.

These remarks will suggest that there is abundant reason for desiring all the light which can be obtained upon the English Rule in Gascony, and that it will illuminate a far larger area than might be expected from such a series of documents. It is clearly no petty or unimportant publication,

but an effort of the largest kind to construct and correct history, one truly deserving of the conjunct operation of the two great Powers whose differences for many ages shook the world, and whose united influence has now for nearly a century promoted its progress.

These, then, are the Rolls of parchment which have been for 600 years and more, and still are, practically inaccessible. There are 151 of them, some of great length, made up of membranes or skins sewn together. Each Roll differs from another in the number of membranes it contains. The records of one reign will average 18 membranes to one Roll, of another 10; the total number amounting to about 1,800. They are very thickly covered over with the minute writing of that period, the words of course being crabbéd with contractions, sometimes to an unusual extent. Experts alone can read this writing; but who can make an efficient study of such a set of MS. records? And yet this is what we now demand. M. de Bréquigny described it as a frightful task, and he was quite right. If one employs an expert it costs from three shillings to five shillings an hour. You do not, however, know where to direct the expert to look, and if you do not give it up in despair, you must be more than human.

But by this time some will be ready to ask:—Why all this difficulty? Have we not Carte's Catalogue? You will see that even if it were perfect it would ill serve the larger purposes above indicated. But as it is essentially defective, we must now observe how it came to be so—at least as far as we have the means of forming a judgment. And this is a necessary part of our work, since there are still some persons who suppose Carte's Catalogue to be a sufficient guide to the Rolls, and they die hard.

In his Preface to the Catalogue, Carte tells us that in 1728 'he undertook the task out of his zeal to serve the French nation, and to show how sensible he was of the kindness he had received' [when in exile for his Jacobite opinions during the reign of King George I.]. He found the labour of making a thorough study of the Rolls too much for

the time at his disposal. 'I therefore preferred,' he says, 'to pay for a copy of the Catalogue [which then accompanied the Rolls], that I might examine it at leisure.' Having returned to France in 1739, he was asked to search for fresh documents, and having shown his copy of the Tower Catalogue to some friends, was begged to print it. This he did, along with the Norman and French Rolls of the English Chancery, which were deposited in the Tower with the Gascon. By this means he considered that 'all the difficulties which had previously rendered most researches unfruitful would be removed.' He then describes the trouble it cost him to form an index of names and places, which involved not only a collection of these, full of difficulty as they were in consequence of the antique orthography, but also copious reference to genealogical and geographical works, and to such other charters as he could collect.

Now we have reason to be thankful to this industrious author, who was one of the first to write English history from original records, for what he did, and still more as he did this particular service from the highest motives of gratitude; but it is most unfortunate that he did not perform what he promised in his Preface, which was to collate his Catalogue again with those in the Tower. It is impossible that he could have done so, or he would have discovered the enormous difference between the two lists of papers. Judging by the only part of the Rolls which has yet been published, embracing the major portion of Henry III.'s reign, it will be seen that his Catalogue only informs us of the existence of 101 documents in the whole reign, while the actual number already published is 4,314. Assuming that the remainder of the reign brings the number up to 5,000, Carte has only printed one in 500. What may be the case with the other reigns we shall soon see. It appears hopeless to guess how this came about. There is no sign of any principle of selection; and if there were, one would expect to find some statement to that effect, but there is nothing of the kind. We should be able to unravel the

mystery if the Tower Catalogues used by Carte were still to be found ; but the following paper, with which I have been kindly supplied by the Director of the Society of Antiquaries, Mr. H. S. Milman, destroys that possibility. As it is not long I will read it here. It is a MS. note in Carte's hand-writing, wafered into the leaf opposite to the title-page of Vol. I. of his printed '*Catalogue des Rôles Gascons*,' in the Inner Temple Library, and runs as follows:—'I printed 250 copies of the Gascon, French, and Norman Rolls at Paris. I believe I have one or two sets here. They are in two volumes folio ; the price two guineas in sheets. There is no repertorium to these Rolls in the Tower, that from which I had mine transcribed, [and] which I printed, having been lent to the late Mr. Topham and lost, so that Mr. Holmes and Mr. Rook [apparently officers in charge of the Tower records] have been forced to apply to me for knowing where to find the particular pieces wanted. Most of our kings' grants of estates in England, passed whilst they were abroad, were entered in these Rolls ; and 'tis vain to search for rewards granted for services in foreign wars among the English Rolls, to which only the repertoriums [now] in the Tower relate.'

So much for the careless guardianship of records which obtained in old times. So much also for the necessity which is thus proved to exist for a complete publication. The Rolls were removed to the Record Office about half a century ago, and thus have long been freed from the difficulties of consulting them and other records so pathetically described by M. de Bréquigny.¹ These I must omit for the sake of brevity, but it is pleasant to observe that this learned victim of disorder found some compensation in the extremely kind way in which he was received generally by English savants, and by King George III. himself, who told him that he took the greatest interest in his researches. After spending much time in the Exchequer, looking for documents regarding France, he began upon the Gascon Rolls in the Tower, 'with

¹ Letter of October 3, 1765, quoted by F. Michel. p. iii, Introduction, *Gascon Rolls*.

the intention of transcribing the principal documents given in Carte's Catalogue, but soon perceived that there was no indication whatever of a great part of the documents, and often that the most interesting were those omitted.' He then gives the description of the Rolls which has been already recited, and concludes with a particular example of Carte's omissions, affecting the history of the Siege of Calais, which was of considerable importance. This seems to be the first public notice of the defects of Carte's Catalogue. M. Francisque Michel, in his Preface to the volume of the Rolls published by himself, goes further:—'People have leaned too long,' says he, 'on Carte's publication . . . The succinct catalogue which he has given is simply a copy of the catalogues of these two collections, much abridged . . . The compilers of these catalogues, neglecting as useless the documents which only concerned obscure private persons, made no mention of them,' and thus, as he says, led historians into many errors. As in all such cases, *suppressio veri* is really *suggestio falsi*.

It would seem that neither the French nor English people paid much attention to these Rolls for more than two centuries after they had been deposited in the Tower. It was not likely that either of them should care much for the memories of the English rule in Aquitaine. Here and there a seigneur of those parts might consult them, at a ruinous price, upon his rights and privileges. But the impulse which led to Carte's undertaking was derived from the policy of Louis XIV. and Louis XV., who appointed Royal Commissions from amongst the Council of France for the purpose of a complete registration of the French nobility. Edicts for this registration, professing to be levelled against usurpers of the 'titre de noblesse,' extend from 1696 to 1717. The question of title thus became only too familiar to the French nobles and gentry, and Carte could not have taken a better method of returning the kindness shown him in exile than that of supplying his friends with the means of facilitating their inquiries into such evidences of their title as the Gascon, Norman, and French Rolls supplied.

There was a long interval between the discovery that Carte's Catalogue was defective and any serious attempt to rectify it. Constant wars intervened. We have seen that at the first note of a permanent peace M. de Bréquigny's strenuous efforts had achieved a certain success; but the MS. volumes containing his researches were retained in his own possession till just before his death in 1794, soon after which they found their way to the Royal Library. It was not till 1842 that M. Jules Delpit was commissioned by the French Government to visit London in order to complete Bréquigny's work, and he produced enough matter to fill several volumes; but, says M. Francisque Michel, from whose Preface to Volume I. of the 'Gascon Rolls' I obtain this information, 'the Government did not feel itself able to undertake the expense of publication, and only one volume saw the light. This,' he says, 'might make a valuable appendix to the Rolls.' M. F. Michel then tells us that the English Record Commission undertook the publication, but the Commission was soon dissolved on the score of expense. A small portion of the Rolls already printed was handed over to him gratis by Sir John Romilly, Master of the Rolls. M. Félix Solar then resolved to present his Gascon countrymen with the coveted gift, but a 'financial catastrophe overwhelmed his noble design.' At length, in 1875, the French Government entrusted the work to M. F. Michel himself. This author, well known for his researches in medieval literature, did not, however, produce any fruits of his labour till 1885, when he brought out a single volume, containing the first six Rolls of Henry III. The fatality, however, attaching to the enterprise still pursued it. The editor was now eighty years of age, and died almost immediately after he had finished this volume. He could not otherwise have left it without an index, which in such a work is absolutely indispensable; nor if he had been a younger man could he have failed to elucidate the text from the stores of medieval knowledge which he must have acquired.

But it is only proper to add that though M. F. Michel

failed to fulfil the expectations of his employers, he behaved towards the writer of this paper with kindness and consideration ; and it is not too much to say that the present arrangement for the publication has sprung from that intercourse. It was from him that the writer of this paper obtained information which enabled him to complete his researches into the history of the family of Brocas of Beaurepaire ; and when Michel died, and all hope of continuing his work seemed to be at an end, it was the interest in the subject thus gained which suggested a method of overcoming the difficulties presented by circumstances. Those circumstances are of a somewhat too personal nature for this paper. Only four names require mention on the side of the French and two on the side of the British, for the purpose of indicating the quarter from whence assistance has been derived. In settling the part to be taken by the French Government in a joint scheme of publication, the two veterans who stand at the head of French antiquarian literature, M. Paul Meyer and M. Léopold Delisle, and their two rapidly rising subordinates, M. C. V. Langlois and M. C. Bémont, both of l'Ecole des Chartes, have been the main contributors to the result. Of the two last, M. Langlois has been the actual agent during a recent visit to England, and M. Bémont has undertaken to fill the extremely arduous post of editor. The French Government takes on itself the expense of and responsibility for transcribing, editing, and printing ; the English supplies photographs of the Rolls. The superintendence of the British part of the compact has, of course, been entrusted to the careful hands of Mr. Maxwell Lyte, the Deputy Keeper of the Records, and the small annual sum by which it was found necessary to supplement the grants from the Treasury usually assigned for such purposes was obtained through the willing adoption of the idea by the late First Lord, the Right Hon. W. H. Smith. His accustomed largeness of view and kindly spirit responded at once to the sentiment expressed in the letter of application, which was to the following effect :—' The necessary sum might indeed possibly be raised from private sources,

but the work would not be then a joint production of the two Governments ; and it is submitted that this is an international consideration of appreciable importance. Anything which exhibits united action between Great Britain and France would tend to strengthen good relations between them, and as such occasions are by no means frequent, even slight bonds may be of some service.'

It only remains to add that no better editor could be found in Europe than M. Bémont, already favourably known by his '*Life of Simon de Montfort*;' and he will have the distinguished assistance not only of M. Langlois, but of a society of savants profoundly interested in the work. Without reflecting on our British men of letters, it would have been quite impossible to match these advantages in our own country.

It has taken some years to effect this joint arrangement : it will take some years before the work is completed. The first set of photographs was transmitted to the French Government about a year ago, and the whole of the Rolls of Edward I., along with the remaining Roll of his predecessor, are now in Paris for transcription. Of course all contractions will be expanded, and we may be sure the work will be properly indexed and edited. The first of the new volumes will complete the reign of Henry III., and include an index to the single volume already published by M. F. Michel. This will contain about 25,000 items. As misfortune has dogged the enterprise for so long a period, and in such an extraordinary manner, it would be rash to entertain too sanguine hopes, but it certainly seems as if the spell were at last broken. The editor hopes to bring out the volume he has in hand before the end of the present year.

Perhaps the writer may be allowed in this place to express his gratitude to the French Government for the honour it has conferred upon him for his humble services in the cause by sending him the very distinguished decoration of '*Officier de l'Instruction Publique*,' an honour totally unexpected and greatly prized. It would be well if some mark of honour

could be conferred upon those who have so liberally worked towards the same end in France. They have taken on themselves the lion's share of the burden, while consenting to entitle the work as the joint operation of the two Governments.

It is very much with the hope that influential persons may see their way to expediting so desirable an object that this paper has been drawn up.

I have confined myself in this paper to the possible effect which the publication now in hand may have upon English history. It will probably have very little less upon that of France; but we may well suspect that the French will deal with their own history more quickly and more profitably than we can do on this side of the water. The administration of the Aquitanian cities in the Middle Ages has already attracted the attention of French savants, who have produced some excellent works on the subject; and perhaps it is—speaking of recent times—the desire to make further progress which has made them so much more anxious to have the Gascon Rolls published than the English have been; but, on the other hand, this earnest desire of theirs is of long standing. We have seen how persevering have been their efforts, extended over many generations. No doubt the English would gladly have taken the matter in hand before this, had not the laudable zeal of Lord Romilly and Sir Duffus Hardy been effectually smothered half a century ago by the parsimony of our Government, almost as soon as their work had begun to bear fruit. The utmost our Record Office has been able to do of late years under the conditions imposed upon its officials is of a humbler kind. It must be remembered also that the expense of transcribing this class of documents, even on the spot, has been a very serious difficulty, and that the alternative of photography has only recently become available.

Perhaps it is also right to observe that our country lies under a disability in such matters from which the French do not suffer. Excellent as is the organisation of the Record

Office, it is not the least like the French Academy, with its various literary committees, and its direct connection with the University, the National Library, and the Government. The Minister of Public Instruction represents a public literary opinion which carries the greatest weight, and sets in motion enterprises which in this country are entirely left to individual energy. How often are these private enterprises starved or stifled out of existence in England! Why should not something analogous to the French Academy be set on foot amongst ourselves?

SOME NOTES ON
THE ΠΟΛΙΤΕΙΑ ΤΩΝ ΑΘΗΝΑΙΩΝ.

BY C. W. C. OMAN, M.A.

IT is twenty months since the first rumours of the discovery of the now famous *Πολιτεία τῶν Ἀθηναίων* went round the learned world, and a year and a half has elapsed since the book itself appeared to vex the souls of those engaged in the teaching of ancient history, and to force them to recast paragraph after paragraph of the books or lectures which had long served them well, but whose hypotheses were, alas ! more often upset than confirmed by the statements of the new authority.

Enough time has now been given us to come to some general conclusions on the book, and formulate the reasons which lead us to adopt them.

There is no writer of repute who has yet ventured to dispute that this is the work which the ancients knew as the *Πολιτεία τῶν Ἀθηναίων*, which Plutarch, Pollux, Harpocraton, and Sopater used. It is sufficient to point out the fact which Mr. Kenyon mentioned in his first edition, that out of fifty-eight quotations in which the book is cited by name in ancient authors, we have fifty-five unmistakably present in our text, while two other passages obviously belong to that part of the early chapters of the book in which our own manuscript is imperfect. No one will seriously dispute that we *have* the original *Πολιτεία*, though some persons have doubted whether we have it quite perfect, whether our copyist has not now and then inserted a paragraph or a story from some other compendium in the midst of the main document. I shall have

occasion to allude to such views while speaking of the passage which deals with Draco.

But, while nearly everyone will grant that this is the old Πολιτεία that Plutarch and Pollux knew, it is a very different matter when we begin to ask whether the book is Aristotle's own or that of one of his school. I am not one of those who can pretend to attribute the authorship of a book with unerring certainty by means of style. There are some who have at once recognised Aristotle's own master touch in the book; while others are as certain as they can well be that it does not bear the least trace of his handiwork. For my own part I must confess that in the comparatively small parts of Aristotle which I have myself read the author seems at times so different from his ordinary self that I should be most loth to assert that any piece of work was or was not his. No one needs to have pointed out to him the difference between the style of the 'Ethics' and the 'Politics,' nor to be told that the same man writing on dry constitutional details does not write like himself discussing philosophic subtleties. We have certainly in this new book nothing like the crabbed τὸ τὶ ἢν εἶναι's and αἰτιὸν δὲ τὸ ὅτι's of the 'Ethics,' but the same may be said of the 'Politics;' and no one of importance refuses to give Aristotle his credit for that work at least. At the same time I must confess that I cannot discover in our new book that easy and elegant style and charm of diction which some critics have observed. It is all straightforward enough, but hardly to be recommended as lively or entertaining reading, in spite of the one or two interesting anecdotes which it preserves. But Cicero of old found the style of Aristotle, as he tells us, pleasant and flowing; and after that we must not quarrel with modern critics who come to the same rather extraordinary conclusion.

But if we refuse to call the book Aristotelian or non-Aristotelian for its style, I think we cannot escape with the same want of conclusion on its subject matter. On the whole, we are driven to conclude that its grasp of the sequence of events, its appreciation of proportion between fact and fact

and period and period, its method of arrangement, and general verdicts on the course of events are unworthy of Aristotle himself. As Mr. Kenyon observes in the preface to his excellent little translation of the *Πολιτεία*, which appeared six months after the text, 'marvellous and multiform though both the knowledge and the industry of the great philosopher must have been, he cannot have written all the works which are ascribed to him in the extant list of his writings.' Above all, the one hundred and fifty-eight Constitutions of States, dealing with communities as far apart as Carthage to the west, and the Brahmins to the east, cannot have been all the work of his own hands. There can be no doubt that he turned all or most of them over to his pupils and scholars. His share in the compilation would be no more than that of (to quote Mr. Kenyon again) Mr. Herbert Spencer in his 'Descriptive Sociology,' where he has set his friends to coordinate and collect the facts on which he intends to comment himself.

But we should have expected that the 'Athenian Constitution,' the first, most important, and no doubt the longest of the treatises on which Aristotle set his scholars to work, would have been either rewritten by the master himself or turned over to the very best and most promising of his school. In homage to Aristotle I must confess that I cannot believe that he looked it over very carefully himself. If so, he would have changed much. And if this is the unassisted work of the best of his pupils, we can only infer that the average run of the genius of the Aristotelian school was not very high; for the book is decidedly unequal, out of proportion, and wanting in grasp.

At the same time there seems to be no good reason for disputing that the work is of the date which it purports to be, an actual compilation of one of Aristotle's scholars made after 329 B.C., and before 325 B.C. – a sufficiently narrow limit of time. The facts that, as Mr. Torr pointed out, quadriremes are mentioned as built by Athens in this book, but not quinquiremes, points unerringly to the five-years space in which only the one sort of ship and not the other also was being

produced from the dockyards of Athens. The Archonship of Kephisophon, cited in cap. 54, gives as a limit 329 B.C., beyond which the book cannot ascend, and, even if we leave out Mr. Torr's argument about the quinquiremes, we cannot escape the fact that the tribes are never conceived of as numbering anything but ten ; a conception which no writer after 307 would have regarded as natural. I must confess, however, that it does seem a little strange to have no account of the seventy years of constitutional change which occurred between 400 and 330 B.C. The writer of the book speaks confidently of the 'present constitution' having been established after the fall of the Thirty Tyrants, and gives no account of any after changes. Yet we know that such there were, and he himself quotes some of them ; for example, the dealings of Agghryrrius with pay for the ecclesia, which were certainly after the year 400, though before the year 392. But there were also other late changes, alluded to in Demosthenes and elsewhere, which, though they were not large enough to cite as constitutional revolutions, and catalogue among the eleven changes of the form of the constitution, were yet worthy of being mentioned by a careful writer. I must confess that it keeps occurring to one's mind that the compiler of the *Πολιτεία* must have had before him some political manual, rather out of date, compiled sixty years or more before his own time, which he must have used as the backbone of his own work, strengthening and expanding it by the other elements which can be detected—his acquaintance with Herodotus, Thucydides, Solon's poems, scholia, extant monuments and perhaps occasional State papers, such as the obvious draft-constitution for the 400, which he must have had before him. They may have included, perhaps, a collection of *Ψηφίσματα*, like the later one of Krateros. I cannot see how else the extreme weakness of the book immediately that the year 402 B.C. has passed can possibly be accounted for.

But in what the author of the *Πολιτεία* has done, rather than in what he has *not* done, lies the ground whereon we must judge him ; and here it is necessary to cite a few of the

points which make us think badly of his capacity for arrangement and critical judgment. For example, he has in the first surviving chapter so written that any casual reader would believe that the purification of the city by Epimenides was immediately after the Cylonian conspiracy and the Ἄγος that the Alcmaeonidae brought upon Athens on that occasion. He has, as we shall see further on, almost certainly gone wrong on the reforms of Draco. He has given an account of the murder of Hipparchus, its causes and incidents, which contradicts flatly all the other authorities, including Herodotus and Thucydides, in a way that we cannot possibly accept. Above all, he tells the one story that even his most firm admirers cannot accept, the tale about the way in which Themistocles cheated both Ephialtes and the Areopagus, and brought about the fall of the latter by means of the fears of the former. That tale, as several writers have pointed out, completely upsets the whole of our Greek chronology for ten years, directly contradicts Herodotus and Thucydides, and is, in short, absolutely untenable. After the death of Ephialtes, again, the greater part of the so-called Pentecontaetia is passed over with an astonishing shortness and slightness. Constitutionally it is, perhaps, the most interesting part of Athenian history, and it is certainly the one where we most wish to be able to supplement our scanty facts in Plutarch and Thucydides by good new authority. But the author of the *Πολιτεία* runs it all into four pages, barely mentioning Thucydides the son of Melesias, and saying astonishingly little about Pericles, against whom he seems to have some special grudge. In a short sweeping sketch of the constitution this would be excusable, but the man who produces a really considerable book, large enough to include whole snatches of elegies from Solon, and to tell at full length the uninteresting details of the abortive constitution of the 400, is bound in common courtesy to give us something more about the great days of Athens, when she ruled the seas under the democratic constitution, guided by the brain of Pericles. We cannot excuse the author, as Mr. Kenyon does, by saying merely, 'It is clear

that, to Aristotle, Pericles did not present so great a figure as he did to Thucydides; that he considers the methods of his statesmanship as disastrous, from their opening the door to abuses which baser imitators introduced, and sees in him the evil genius who made the later careers of Cleons and Cleophons possible.' That may be true, but the writer of a constitutional history is bound to set forth precisely causes and effects at length where they are important. To slur over a statesman because you regard him as mischievous is ridiculous. We may be sure that Aristotle himself would not have made these lamentable omissions.

After the days of Pericles we are surprised to find no mention of Hyperbolos, whom our author omits with the same carelessness that Thucydides shows. Even Alcibiades slips entirely out of sight. In compensation, however, we get a long and most confused account of the 400, but to our discontent it is greatly at odds with the details of Thucydides' story. The conflict here is most unhappy, and gives us new trouble in what was till now a comparatively easy piece of history. For the author of the *Πολιτεία* is so diffuse and detailed that we feel sure that he must be quoting from State documents. But if so, Thucydides, a contemporary and a careful one, must be hopelessly wrong in a piece of writing to which he has obviously given special care.¹ And if once we begin upsetting Thucydides where are we to stop? On the whole, one would be inclined to stand by the historian, and to let the *Πολιτεία* go, on the mere ground that its double constitutions, the actual temporary one and the abortive one that never came into use, are too complicated and confused. It is, perhaps, worth while pointing out that, in addition to his other failings, the author of the *Πολιτεία* is not always even consistent with himself in his judgment on the events he chronicles. He sometimes seems rather in favour of democracy, when he points out that 'the few are more corruptible than the many both by money and influence,' in the com-

¹ Thucydides *could* be a careless copyist, as is shown by comparing his incomplete rendering of the terms of the peace of Nicias with extant inscriptions.

mendation of the *εἰωθυῖα πραότης τοῦ δήμου*, and when, on the whole, he praises Solon, though acknowledging him to be distinctly democratic in all his bearings. Generally, however, he is distinctly oligarchic, most notably so in the strange passage where he deliberately commends Nicias as the *βέλτιστος τῶν πολιτευσαμένων*—surely a view unworthy of a man of Aristotle's brain—commends the shifty Theramenes as doing the *ἀγαθοῦ πολίτου ἔργον* in his constant changes from side to side, and where he distinctly praises the polity of the 5,000. Allowing even that the author disliked Pericles and had a sentimental preference for the ancient constitution that prevailed from Cleisthenes to Solon, nothing can justify him in taking these last views, more especially as regards Nicias and Theramenes.

So far as to the general character of the book. I must now pass on to three points in the *Πολιτεία* on which I have thought it worth while to put together detailed notes. The first relates to Draco. It is a most startling thing to find from our new book that he was a constitutional reformer, strongly in the democratic direction; a fact that we should never have gathered from the considerable number of references to him in other authorities. The chief points in his new constitution are: (1) the governing body of the State is to consist of all who can furnish a suit of armour; and (2) they elect by direct election the nine archons, from such persons as are assessed at ten minae and upward, and the four *strategi* from those assessed at one hundred minae and upward (why so much more than the archons?). Besides the assembly of hoplites and the archons whom they chose, the other power in the State is a *boulê* of 401, taken by lot from all citizens over thirty. If a *bouleutes* did not appear at either *βουλή* or *ἐκκλησία*, he was to be fined according to his census—more if a *pentacosimedimnus*, less if a *hippeus*, less still if a mere hoplite. (3) The Areopagus, we are vaguely told, still remained the guardian of the laws.

Now, it is clear that, if this constitution is correctly described, it was certainly Draco, and not Solon, who abolished

aristocratic government at Athens and introduced democracy. A constitution in which both archons and strategi are directly elected by an ecclesia containing everyone, save the thetes, is far more democratic than the laws we have been taught to call Solon's.

But is the passage to be trusted? The Πολιτεία was, we know, in the hands of Plutarch, Harpocration, Suidas, and others, who have quoted from it largely. All cap. i. is largely quoted from, and the general purpose of cap. ii. is copied out in Plutarch's 'Solon'; the account of the early aristocratic constitution is quoted twice by Suidas; and Harpocration, when talking of Solon's time, speaks of the assessments of pentacosiomedimni, hippeis, and zeugitae, distinctly referring them to Solon, and quoting by name the Ἀθηναίων Πολιτεία. Now, if these authors had our copy of the Πολιτεία before them, they must surely have mentioned these radical changes of Draco. Especially in Plutarch's 'Solon,' such facts *must* have been recorded; they vitiate the whole thesis about the harsh aristocratical pre-Solonian constitution on which Plutarch expatiates at length. Harpocration, too, if speaking of the assessments with the Πολιτεία before him, could not have called them Solon's if he knew them to be Draco's.

It is hard, however, to form an hypothesis to account for the presence of these details. But (1) either Plutarch and Harpocration saw them, but neglected them as wrong, and put everything down to Solon; or else (2) they were not in the copies of the Πολιτεία which Plutarch and Harpocration possessed. It is barely possible, in the first case, that Aristotle's assistant, who put this book together, had come upon a falsified account of early Athenian history—let us say, for example, a pamphlet written by Antiphon in 411 B.C. to furnish precedents for the usurpation of the 400. For observe that the constitution here called Draconic is precisely that of the 5,000 of 412 B.C., the hoplite body being the governing force in the State, the thetes excluded, and all the magistrates elected by this semi-oligarchic hoplite assembly. A pamph-

leteer, such as Antiphon, might look up a precedent for his new constitution, and father it on Draco as the typical pre-Solonian oligarch. Can Plutarch and Harpocration have seen the *Πολιτεία* was wrong, and have left it alone? We doubt it.

But is it possible that their copy had not this passage in it, but that our own has been bungled by a copyist who let in to the paragraphs dealing with Draco something relating to 412 B.C., either from sheer carelessness, or by some mistaken argument from logic as to the likely place to insert a broken fragment? We know that his copy was already mutilated before he used it, and he may conceivably have let a fragment into the wrong lacuna. It is, at any rate, noticeable that, when dealing with Solon a little later, he makes the Solonian constitution contrast, not with Draco's, but with τὸ ἀρχαῖον, apparently meaning the old oligarchy; and that, when summing up all the constitutions under which Athens had lived in cap. 41, he speaks of Draco and Solon thus:— 'Second was Draco's *κατάστασις*, in which laws were first written down; third that of Solon, from which came the beginning of democracy.' Now, if Draco's constitution had included a large public assembly electing all the magistrates, surely Aristotle would not have deliberately stated that not this, but Solon's arrangement commenced democracy. Lastly, we must contrast with this chapter on Draco the most convincing fact of all—that, in the 'Politics,' Aristotle distinctly says that Draco did not make constitutional changes—*πολιτεία δ' ὑπαρχούσῃ τοὺς νόμους ἔθηκεν*—'he added a code of laws to the already existing constitution,' not 'he subverted it by his code of laws.'

This rather seems to dispose of the authority for Draco's reforms. But I see no reason in the actual nature of things why an *ἐκκλησία* of hoplites may not have been in existence in Draco's time, as a legitimate descendant of the Homeric agora. In most histories of most peoples there has been a time when the governing body in the State was the muster of its armed men. It is only necessary to hint at the picture in

Tacitus' *Germania* to give a fair example. There may very well have been an ecclesia at Athens in the seventh century, deriving its origin from the Homeric agora, from which inferior classes of freemen would be excluded. Indeed, we get traces of the existence of such a body.

Not the ἐκκλησία of hoplites, but the election of magistrates and the use of the lot for the βουλῇ are the stumbling-blocks in this account of Draco in the Πολιτεία. I notice that Mr. Kenyon, in the preface to his translation of the book, which has followed the original text at some interval, now holds that 'the details of the Draconian constitution are such as to arouse the greatest surprise, not to say scepticism, in students of Greek history.' This concedes something, though Mr. Kenyon does not yet allow that he himself doubts the story.

Another point about Draco may be worth a casual note. The extreme harshness of his laws, which made even petty stealing and habitual idleness crimes worthy of death, may be paralleled from other times of economic stress and bitter poverty. Compare our own laws against 'sturdy and valiant beggars' under Edward VI. and Henry VIII. This, too, was a time of the upsetting of ancient economic régime, when the whole polity was ill at ease, and the tramp and 'valiant beggar' became such a pest that the ruling classes grew seriously frightened, and strove to put him down by the most hideously cruel legislation. The able-bodied man who refused to work was then made liable (1) to be whipped, (2) to be sold into slavery, (3) to be branded if he still persevered in his idleness, (4) to be hung on the fourth occasion.

Whether Draco was a constitutional reformer or not, it is, at any rate, certain that his reforms settled nothing. Even if political privilege was granted, it did not settle the equally pressing economic question which was pressing on Attica. Still, as Aristotle says, ἐπὶ δὲ τοῖς σώμασιν ἦσαν δεδεμένοι, καὶ ἡ χώρα δι' ὀλίγων ἦν.

Let us now turn to the chief problem which the Πολιτεία starts about Solon. Concerning the economic struggle which led to Solon's legislation, there was, as all know, much

debate before the Πολιτεία came to help us. There are practically three hypotheses that have been advanced: (1) that it was a struggle of servile tenants, somewhat like mediæval villeins, against the lords who were owners or joint owners of the lands which the tenants cultivated; (2) that the tenants here are not villeins, but freemen not owning land, *θῆτες*, who have taken the land of the richer holders to farm, and would have, unless bound by debt, the power to migrate elsewhere; (3) that the cultivators of the land are also its owners, but have, owing to stress of long war and bad harvests, become impoverished, and mortgaged their land to rich creditors of the capitalist class. This has been the usual version, and the pillars which Solon is said to have been removing are explained as the mortgage marks of the creditors, set as tokens on the land of the debtors.

The new Aristotle is quite against this last theory, and gives us rather a variant of No. 2. It states that 'Ἡ χώρα δι' ὀλίγων ἦν, i.e. Attica was mainly in the hands of large holders, who let out their land for cultivation to poor agriculturists who *εἰργάζοντο τοὺς ἀγροὺς τῶν πλουσίων, ἐκτῆμοροι καλούμενοι καὶ πελάται*. This certainly suggests poor tenant farmers, who, one would suppose, must have had their lands stocked and worked by the capital of the large landowner who employed them, a well-known form of early tenure. The *δανείσματα*, loans made by the landlord to the tenant, would in such case be explained by holding that the capitalist advanced the stock, seed, agricultural implements, &c., and charged them against the tenant, probably at an exorbitant rate, in days when interest always ruled very high. But it is also indirectly suggested here that the tenant may have even become the client of his landlord, as the Πολιτεία gives us as a synonym for *ἐκτῆμοροι*, the word *πελάται*, which distinctly seems to have had a flavour of clientship about it; it was the one which Plutarch chose four centuries later to use, as best expressing in Greek the Roman term 'clientela,' when he was writing about early Roman history. Did the *θῆς* possibly have to 'commend himself to a lord,' as we

should say in mediæval feudal phraseology, when he took land from him?

Or may we rather think of another explanation, of the way in which the land came into the hands of 'the few'? Does the obscurity of early Attic history cover any story of a foreign conquest, which placed the land in the hands of the conquerors, in spite of the unanimity with which Athenian historians from first to last protest against the idea? Was the reception of the exiled Ionians of the Peloponnesus into Attica after the Dorian invasion altogether friendly, as the stories tell, or was the substitution of the strange royal line of the Melantidae from Pylos for the old Attic house of Theseus purely the effect (as the legends will have it) of a friendly adoption? If only one could suppose these tales to cover some story of Ionic invasion of Attica, and the subjugation of the previous Attic population by incoming Ionians, who formed an oligarchy, the situation as we find it in Solon's day would be easier to understand.

Be this so or not, the *Πολιτεία* distinctly tells us that the struggle was between tenant farmers and their landlords, not between mortgage-ridden freeholders and their capitalist creditors. Mr. Kenyon tries to represent the fact rather the other way, saying in his preface that 'the poor, while the land question was unsettled, were at the mercy of their creditors, who were practically their landlords.' But this is not what Aristotle says: *ἡ χώρα δι' ὀλίγων ἦν* distinctly asserts that the few were the proprietors, not the mortgagees.

May we possibly explain Draco's hoplite constitution by saying that the freeholders other than great freeholders were so few that the forming of an *ἐκκλησία* of them would have made no practical difference? If in England in the twelfth century the king had been compelled to call up to his Great Council, not only all great tenants-in-chief, but all tenants-in-chief whatever, the practical difference would not have been very great, owing to the small numbers of the lesser tenants-in-chief compared with those of the bulk of the nation in its various conditions of villenage.

At any rate, the new Πολιτεία tells us that Solon introduced the *σεισάχθεια*, or complete repudiation of all debts—not a mere whittling down of debts, as some modern writers have tried to make it. This would, however, only have set the small tenant farmers at par once more with their landlords, and one could only suspect that the old results would ere long have followed again, and the tenant class become impoverished. The mere prohibition of loans on personal security would not have saved the *θῆτες* in perpetuity from distress. Is it possible that, adopting the villein theory of the tenant's position, what Solon really did was to make villein tenants into freeholders, by abrogating the old landowners' rights over them, which would, according to the account we have here, have been only the right to a feudal rent of one-sixth? One must confess that the authorities do not justify one in making such an hypothesis; but it certainly is the only one that can explain how Solon's *Seisactheia* turned what had been a land with few landholders and an agricultural population of distressed *θῆτες* into a land of freeholders with a great body of *zeugitae*, small free farmers, who formed the backbone of the population.

This only is clear, that no *Seisactheia*, if only used as a cancelling of debt, could have put an end to a state of things where *ἡ χώρα δι' ὀλίγων ἦν*, and where the bulk of the population was in a servile condition. I see no other way out of the problem except that of holding that the previous condition had been feudal servitude, and that Solon's work was to take away the customary rents, and thus turn villeins into freeholders.

The third point to which I wish to call attention is the history of the Attic demes. As to the demes we had little before us till the Πολιτεία appeared except the puzzling words of Herodotus, v. 69—*δέκα δὲ τοὺς δήμους κατένεμε ἐς τὰς φυλάς*—which certainly means on the face of it that Solon put ten demes into each tribe, and that there were therefore only 100 demes in his day. This statement has caused much trouble, in view of the fact that by the third century B.C.

there were 174 demes, as Polemo, quoted by Strabo, informs us; a number so largely increased as to be startling. Two ways have been found of dealing with Herodotus' statement: the first, that he is merely wrong, and that the number of demes per tribe was never exactly ten; the second, that he was right originally, and that the increase from 100 to 174 was due to subdivision owing to increase of population, and to additions on the frontier line created out of land conquered from Boeotia.

I cannot hold with this theory of the gradual increase of the demes from 100 to 174. It is probable, indeed, that one or two new demes were created on the Boeotian frontier, of which, for example, the deme of Graes, in the neighbourhood of Oropus, would be most certainly one. But it appears on investigation that the number of these newly-created frontier demes must have been very small, for the larger places won from the Boeotians do not appear as demes at all, nor on the other hand do demes of new name appear to have been made so as to include the new townships, though not to use their name. I allude particularly to the fact that neither Oropus nor Eleutherae were ever demes, and that in the neighbourhood of each of them we find a curious dearth of deme-names. Were they governed in some abnormal way, and not on the deme system, and did they count as integral parts of Attica or not? I should be glad of hints on the point.

But if we cannot account for the increase of demes from 100 to 174 by frontier additions, is it possible to do so by supposing that internal subdivision sent up the numbers? There are a few facts that might seem to point to this theory being feasible, *e.g.* we get double demes of the same name and on the same spot: Lamptra *ὑπένερθεν* and Lamptra *καθ'ὑπερθεν*; Potamos, *ὑπ'* and *κατ'*; Pergase, *ὑπ'* and *κατ'*. But these instances are very rare—only six in the whole deme list—and do not take us far. Moreover, if townships were to be cut up so as to increase the whole number, it is the larger ones that would have been selected for division, such as the Athenian town-demes, large places like Eleusis or

Acharuæ, and, above all, the overgrown deme of Peiræus. But all the subdivided demes, without exception, are quite unimportant places, whose population cannot have been great.

The fact is, however, that any such idea as the cutting up of demes on a large scale is impossible, for a much simpler reason. As in Rome, so in Athens it was paternity, not place of residence, that constituted a man a member of a particular tribe or deme. In Rome a member of the Pomptine tribe who came up from his marshes to live on the Velia did not become a member of the Veline tribe, but remained a member of the Pomptine. So in Athens a man of the deme Paecania, in the Attic midlands, might come and live in the Cerameicus or the Peiræus, but did not thereby cease to be a Paecanian. Thucydides, of course, did not spend his life at sea-side Halimus, nor the city-haunting Socrates at Alopece, in the Mesogæa. But if a man's residence did not settle his membership of a deme, of course a deme which grew over-populous was not divisible into two when it became unwieldy, for the surplus inhabitants were men of a hundred different demes from all over Attica. Of course, if demes *had* been divisible we should have seen divided Peiræus, the most populous deme of all, and should know of separate demes of Munychia, or Eëtiona, or Zea, or so forth; but as a matter of fact none such exist.

We may therefore reasonably say that the multiplication of demes took place *neither* by conquest on the Boeotian-Megarian border, *nor* by subdivisions of already existing demes. It is hard to think of any *other* method by which the number could have risen, and so we find ourselves driven on to the conclusion that if there were 174 in the third century, there were probably only a very few less in the fifth. This being so, we are driven to reject altogether Herodotus' story of the ten demes being allotted to each tribe.

Cleisthenes thus probably had some 160 districts to deal with, and these were mainly ancient units, towns of the primeval Attic dodecapolis or other 'demes' (for the word is pre-Cleisthenic) of ancient settlement, such as those whose

antiquity seems to be guaranteed by their having old family patronymics, as title—Butadae, Lacidae, Echelidae, &c. But Cleisthenes also made new demes, probably those with rather common place names that appear in our lists: Πόρος, the ferry; Ποταμός, Φῆγος, from its tree; Halae, on its beach, and so forth.

The country was then, as the Πολιτεία tells us, 'divided by demes into thirty parts, ten from the districts about the city, ten from the coast, and ten from the midland. These thirty parts were called trittyes, and three were assigned by lot to each tribe, in such a way that each should have one portion in each of three divisions.' Is it possible that these were the 'tens' that were running in Herodotus' head when he broached his theory of the division of the demes by tens into the ten tribes? Perhaps it may be so.

Now of the 174 demes we have practically the names of all—only ten or twelve are missing. We know of 162 of them, and of these all but five or six can be put under their tribes; there are only a very insignificant minority which cannot be so reckoned up. It is possible, then, to reconstitute the trittyes and see how they lay, and what they consisted of. To this end I did my best by constructing a map to indicate the situation of all the known demes. Of the 162 there are, unfortunately, nearly one-third whose situations are doubtful or unknown. But the hundred and odd which are certain make it possible for us to reconstitute so much of the map that a good deal of the rest may be conjecturally reconstructed, and by that means the place of a fair number of the unknown demes shrewdly guessed at.

The first thing that strikes us in looking at the names of the demes distributed under their tribes is that the numbers per tribe are quite irregular. If there had been any attempt to equalise the mere number of the demes per tribe, then each should have had about sixteen in it. As a matter of fact Leontis has nineteen, Aegeis eighteen, while Cecropis, on the other hand, has only eleven, and Aeantis and Oeneis only twelve. It might have been supposed that it would be found

on inquiry that a tribe which had an excessive number of demes would prove to be composed exclusively of small unimportant townships, while a tribe owning very few would be found to include important city demes, whose population would make up the equivalent of many little country parishes. This, however, does not seem to be entirely so. Aegaeis, for example, with its eighteen demes, includes no less than two great city demes, Kolyttus and Diomeia, while no other tribe has more than one. There must have been a very perceptible difference between the size of such a tribe and that of one like Aeantis, which contained only twelve demes altogether, and no city deme among them at all.

The next point to observe is whether the Πολιτεία is right in stating that each tribe has a trittys near the city, one in the Diacria, and one on the shore. That is, do we find demes of each tribe in three parts of Attica only, and then in compact blocks of three, four, or five, without any straggling demes in odd places? And are the three trittyes of each tribe widely removed from each other, always one on the shore, one in the plain, and one in the mountains? To these questions we are, on the whole, bound to reply in the negative. We find at least two tribes whose shore trittyes and mountain trittyes are coterminous. These are: (1) the Aeantis, which has a solid block of ten demes all together in the north-east corner of Attica, near Marathon, while its third or city trittys seems to have been Phalerum, the seaport of Athens in Cleisthenes' day, with probably the single deme of Kucala (exact place unknown) added to it. (2) The Pandionis has also its shore trittys and its mountain trittys coterminous; they lie in east-central Attica, the coast share taking in Stiria and Prasiae, while the inland trittys has Myrrhinus, Cytherrus, and Paeania. It is curious to note that both these tribes, whose trittyes are not scattered, lie in districts which formed strongholds of the old party of the tyrants. The Aeantis patch actually includes the heart of the Diacria, where the Peisistratidae were strongest, so that local parties might have formed there.

The trittyes, then, are sometimes together, when we can detect them as compact blocks of demes. But it is more curious to find that there are some tribes where we cannot work out consistently the positions of the three trittyes at all. The Hippothoöntis seems to have four patches rather than three, having (1) the extreme south cape of Attica, with Azenia and Acherdus; (2) a district round Decelea: these should be its 'shore' and 'hill'; but it also has (3) Eleusis and its neighbourhood in the Thriasian plain; and (4) Peiraeus and two demes near it in the home-shore district, close to the gates of Athens. Either, then, the Hippothoöntis had four patches instead of three, or else we may count a trittys as a not entirely coterminous district, but as liable to have demes from other tribes, cutting its territory in two. This last view seems inevitable when we find, just north of Athens, a hopeless mixture of demes of different tribes with the boundaries of trittyes quite unintelligible. We are driven, then, to believe that a trittys, though it might be a solid block of demes, was not necessarily so. A number of them can be worked out, especially along the east coast of Attica; but, on the other hand, there are parts, principally in the central plain of Athens, where the villages of each trittys are often hopelessly intermixed. Was this 'political jerrymandering' or the work of chance? If the trittyes were settled by the hazard of the die, we can see at once how it came to be that (very likely contrary to the intention of Cleisthenes) two-thirds of the demes of the Aeantis and Pandionis were in blocks. But the curious groups of the central part of Attica suggest some other origin. One can only suspect political manœuvring of some sort or other. Were the Eupatridae particularly strong there, and was it necessary to prevent even the demes of the same trittys from touching each other?

Another point about the demes requires a further word of notice. We are told that the reason that Cleisthenes made ten tribes, not twelve, was that there might be no possibility of the existing twelve trittyes, four of which went to each of the old Ionic tribes, being utilised as units, for so he could not

have achieved his purpose of redistributing the population in fresh aggregations. This presupposes that the old trittyes were *local*, as were, of course, their subdivisions, the Naucraries. But they are also known to be fractions of the old Ionic tribes of the Hopletes, Argades, Geleontes, and Aegicoreis. This seems definitely to presuppose that the old tribes, therefore, must have been local, not merely gentile and counting by blood. If so, we have to fit Φρατρίαι and γεινή and every other ancient subdivisions of the Ionic tribes into local divisions of Attica. Must we suppose that the Aegicoreis occupied the mountains with their flocks, and were the same thing practically as the faction of the Διακρία? And so with the other tribes. Are the Hopletes the men of the Attic plain, and who are the mysterious Geleontes? This line of inquiry seems hopelessly difficult. Yet locality seems as much indicated as blood in the inferences that can be drawn from the allusions to the pre-Cleisthenic local divisions of Attica. One consequence of this line of reasoning would certainly be to suppose that the *πρυτάνεις τῶν Ναυκράρων* in Herodotus, v. 71, who have puzzled so many later commentators, must have been something of the same sort as the later Δήμαρχοι, the local chiefs of the ordinary subdivisions of Attica. But in regard to these mysterious persons, we can always fall back on the easy supposition that Herodotus was making one of his errors, and should have talked of the four strategi or the archons.

It is not necessary for me to point out that there are still numberless points of interest to be worked out in the Πολιτεία. I trust to see them taken in hand one by one and dealt with by those who are responsible for the ancient-history teaching of England. May I venture to hope that some of the monographs which will deal with them may be found, in succession to my own modest effort, in the pages of the publications of the Royal Historical Society?

NOTES ON THE HISTORY OF THE FAMILY OF RUMBOLD IN THE SEVENTEENTH CEN- TURY.

COMMUNICATED BY SIR HORACE RUMBOLD, BART., G.C.M.G.
F.R.Hist.S., H.B.M. Minister at the Hague.

IN the course of extensive researches in which I have been engaged for some years on the subject of the history of the Rumbold family during the seventeenth century, and more especially at the period immediately preceding the Restoration, I came across a paper in the British Museum which has never, as far as I know, been made public, and is, perhaps, not unworthy to find a place among the 'Transactions of the Royal Historical Society.'¹ The curious document in question is headed 'A Particular of the Services performed by me Henry Rumbold for His Majesty.'²

Some apology may be due for the prolixity and barbarous Spanish-English of the writer, but, on the whole, his narrative repays perusal, although he himself throws what, to many, may seem a discreditable light on the view he took of his duty as an Englishman by openly priding himself on having, in his zeal for the royal cause, 'served the Spaniards in several eminent occasions against Cromwell.' In extenuation of his thus placing his king above his country, it may be observed that patriotism, such as it is now understood, was an unknown conception to the majority of those engaged in the tremendous civil conflict of that period. Henry

¹ Add. MSS. 17,018, ff. 149-151. The volume containing the memorial forms part of the Hyde papers.

² To the late Mr. Charles Bridger, a genealogist of remarkable erudition and unflagging industry, I am indebted for the discovery of this interesting paper.

Rumbold was unquestionably a devoted Royalist—as was his better known elder brother William, to whose exertions, in favour of the Restoration, Clarendon, Barwick, and others pay a handsome tribute—and he faithfully served his master, according to his lights, at a period, be it remembered, when the royal fortunes were at their lowest ebb, and there was but little prospect of his loyalty being rewarded.

It will be seen from his narrative that he embarked in commercial pursuits in Spain at an early age, though I have as yet been unable to discover the immediate cause of his proceeding to that country. He speaks of himself as already in business there (at Puerto Sta. Maria) in 1645.¹ As he was baptized in 1617 (at Burbage in Leicestershire) we may assume that he had left England a year or two before the outbreak of the Civil War. We must think of him, therefore, as an Anglo-Spaniard of some twenty years' standing who had formed family ties in Spain, conformed to all outward appearance to the religion of the country, and was thoroughly imbued with Spanish ideas and prejudices. His memorial is unfortunately undated, but from internal evidence it appears to have been written in 1674 or 1675, eleven or twelve years after he had returned for good to the country of his birth. I will now leave the man to tell his own story.

A PARTICULAR OF THE SERVICES PERFORMED BY ME HENRY RUMBOLD FOR HIS MAJESTY.

That from King Charles the Firsts going from London my Brother William Rumbold attended his Majesty, and after by his Majestys Comānd returned for London and brought away the Standard,² that was Lodged in the Great Wardrobe of Which my Brother was then Clarke, and all along from that time followed his Majesty till after the Battle of Nasbey, in which both my father and Brother were

¹ The baptismal register of San Lucar de Barrameda has an entry showing that he and Isabel de Avila, afterwards his wife, were godfather and godmother to the child of Juan Perez in 1646.

² The eccentric punctuation and spelling of the writer are left unchanged.

engaged, and my father soone after taken from his owne house in Lecestershire¹ and made Prisoner in Leicester by Colonel Gray, and my Brother gott out of England and came to me to Spaine, untill better security (in disguise as a Marchant) hee returned for England, and after the late Kings murder, he was soe farr concerned in his present Majestys Service, that therein he spent a good Estate of his owne and mine also, to assist him therein. Besides the losse of 6000*l.* sterling in Spanish Plate,² Cuchinile and 300 butts of Xeres wyne all taken in the ship Culpeper by Sir John Minnes, Commander of His Majestys Ship the Swallow Sir Thomas Allen then Lieutenant, and carryed to Kimsale in Ireland, where Prince Rupert then lay, though the said ship Culpeper had his Majestys free Pasport for London (for otherwise wee should not have ventured) and although thereupon, my Brother Rumbold had obtained his Majestys Gracious Letters, and order to the Prince, and gott over into Ireland with them, yet could never have the money or goods restored, or receive any Satisfaction but losse of time, charge and hazard of his life, by disobeying a Prohibition of Cromwells for Treateing with the Prince; That in the yeare 1653, I came from Spaine to London, where I found my Brother wholly engaged in his Majestys Concernes, as being a Secretary to his Councill and Cheife Agent for supplying his Majesty with moneys, with whom I joined my endeavours to my best capacity and Particularly contriveing with my Brother how I might be Serviceable to his Majesty in Spaine (which commerce kept England flourishing) and whither I was returning to my Partner Anthony Vpton Merchant, by whose meanes (he having many relations of Cromwells party) as his Brother John Vpton (Secretary Thurlow's Brother in Law now one of his Majestys Commissioners for Customes) I had the oportunity to know all the designes against Spaine, of which I made the best use for his

¹ At, or near, Burbage, where the family, an offshoot of the Essex or Hertfordshire Rumbolds, had been settled for three generations.

² *Plata*, silver.

Majestys advantage thereby gaining the Spaniards affection to his Majesty, who till then, would not anyway owne his Interest, Where upon I gave Notice to his Majesty by Letters to Sir Edward Hide, now Lord Clarendon, and how I had the good fortune in Serveing the Spaniards in severall eminent occasions against Cromwells designes, by the Warr he had with Spaine, which might come to make his Majesty happy, if that Trade was prevented and Taken fully away, and how seasonable it would be, for his Majesty to depute a Minister for Spaine, with many Necessary instructions to that purpose, which appeares by the Lord Clarendons answer, wherein he assures me, that his Majesty was pleased to Esteeme much of my advice, but was not of opinion to send a Minister to the Spanish Court, for that his Pasports were not admitted, nor his Majestys Certificates for his owne Servants to Reside in Spaine, Since the Warr with Cromwell. To which I replied, that if his Majesty was pleased to send a fitt person, as his Ambassadour, I would engage my head, he should be received, vpon which Sir Henry Bennet (now Lord Arlington) was dispatched and comeing to Madred his Credenciall Letters were not admitted, of which Sir Henry Bennett gave me Notice, and I also vnderstood it (by one of the Kings Secretarys whom I had obliged, and kept Correspondency with (and of whom Sir Henry after, by my meanes, received severall kindnesses). I presently applyed myselfe to the Duke de Medina Celi Generall both at Sea and land,¹ and who best vnderstood my services, and what I had performed in person as well as by intelligence, in order to the defeateing of Cromwells designes against Spaine, and for better Security to live there in time of Warr, I was made Cornet of the Dukes life Guard,² and actually then with him vpon the Coast, where he was with forces to secure all Places against the Enemies fleet, which was then in sight anchored

¹ Don Antonio Juan Luis de la Cerda, seventh duke, died in 1671.

² In a much shorter Memorial in the Preston collection, among the papers of Sir Richard Graham, Bart., of Netherby, Henry Rumbold states that he 'was serveing upon those Coast's, and carryd the Guion (guidon, or ensign) to the Cap^t Gen^l the then Duke de Medina Celis Lifeguard.'

before Cadiz, in which circumstance I tooke an opportunity to acquaint the Duke, that as my Intelligence proved true concerning the comeing of Cromwells fleet, with the Generalls Blake and Montague, soe his Grace might please to beleeeve that there were many considerable persons in the fleet, well wishers to their King, and many officers might be wrought vpon to leave Cromwells service and come into there [*sic*] Ports if a Publick Minister were received, in the King of Englands name, whom they might apply themselves vnto. For otherwise to come in, would be looked vpon as betraying their countrey, and not doeing their Kings Service, with severall other reasons to this purpose which the Duke commanded me to draw vp in writeing and sent them imediately to Court, wherevpon Sir Henry Bennett was admitted, as by his Letters then to me appeare who was pleased to write me That the acceptance his Majestys Letters of Credence at first did not find, I had obtained, and made good by the Duke of Medina Celis Consult for the King and Councill. And there vpon was settled with full authority and Priviledge as other Ambassadors and I ever after kept a constant correspondence with Sir Henry and also with the Chancelor and the Duke of Ormond then in flanders, to promote his Majestys Interest and prejudice Cromwells vndertakings, and by that meanes also preserving it with my Brother Rumbold in England, of which Cromwell was so sensible that my Brother being after made Prisoner in the Tower he was examined if he held any communication by Letters or otherway with me, and offers made him of enlargement if he would prevaile to get me over into England, which passage is well knowne to many yet living. But he was not a subject to be so wrought vpon, for Cromwell had vnderstood that by my directions his fleets designs were wholly defeated ; As Mr. Vptons Letters from his aforesaid Brother Vpton and relation Mr. Boones also, and advice to him to get in his Estate and come for England and leave me that was a person soe highly prejudiciall to the Protector. But he was more honest than all his family and would not follow their Councill,

but shewed me the Letter, Though delivered him in Private, by a Dutch Skipper, and answered them :

That his estate (which indeed was considerable) was in Spaniards hands and could not gett in at present. But should follow their order as soon as could with convenience and so kept a faire correspondence with them, of which I made use in severall occations to the advantage of his Maj^{ty} Service ; For Secretary Thurlow also understood that Blakes designe for the Canaries had miscarried by my meanes, and how I had obtained advice from aboard Generall Blakes fleet of his Intentions to goe to those Islands (by one who was abroad with the fleet in the day in a Marchants ship, and lay of from the fleet, who was with me the night, many times a shore), soe thereby I knew that Blake had taken one of the advice Boates which Brought Letters that the new Spanish fleet¹ was arived in the Canaries and Blakes intention to surprise them, of which I gave notice to the Duke de Medina Celi who sent away that very day two vessells from S^t Lucar and Ayamonte to advice the Admirall of the said new Spanish fleet, as alsoe the Governour of the Islands that Blakes fleet would be suddenly with them. That before Blake could take in fresh water and other necessarys vpon the Coast of Portugall, The Admirall of the New Spanish fleet had landed (when Blake came) all the silver and fine goods. And what Blake there did (so much celebrated by some of that faction and others that little vnderstood those proceedings) was only burning some emty ships of which most were Merchant men, and only two of the King of Spaines Ships and their Gunnes, as well as other Materialls saved, And was not worth one Ryall² to the English. But to the contrary turned the King of Spaine much to account for by landing the silver the Governor of the Islands perceaved the great quantity that was out of the Register, which in Rigour of Law was all confiscate to the King, that the Commerce was forced to send to Spaine againe the King 500,000 peecess

¹ The fleet, or galleons, from New Spain (Mexico).

² Real (Spanish coin).

of 8 for his Royal Cedula of Indulgence, and more oblige themselves to secure all the Kings mony for Spaine and flanders which charges were laid most vpon the Effects of Strangers, that the Spaniards paid little, all which passages I then advised Sir Henry and the Chancelour Sir Edward Hide, and of the great losses England had received by the Spanish Warr, there being taken during that Warr above 1800 ships as appeares in the Admiralty Court by a Particular of them after given in, and more then signified with the approbation of Sir Walter Dongan (since Lord Dongan) who then lay in my House. That Lockart Cromwells Ambassadour lay then at Mons^r John Wescombs at Bayon, hoping to conclude a Peace with Spain by the assistance of Cardinall Mazarin, who was then in those Parts, about the King of France Marriage with the Infant of Spaine which Peace if not prevented would vtterly have Ruined our King, and Indeed then some of my Letters to the Chancelour Hide concerning the same proposals for prevention were intercepted, at Bayon by meanes of said Wescomb who had some orders and Influence vpon the Post Masters and knew my hand, and said Letters given to Lockart, which passage is knowne to Lockarts Secretary (who was then Master Cooke, now in the office of Secretary Coventry) and our King happily coming suddenly after in person to Biscay prevented that conclution with Spaine and begot a good vnderstanding with Dⁿ Luis de Haro and further Articles with our King that Spaine should never make Peace, or any way side againe with the Rebels ; which being knowne in England gave a sudden change to the face of Cromwells affaires and much prejudice his sons after him, by alienating the Peoples hearts from them who could not Brooke to see the Spanish Trade (which was so considerable to the whole Nation) to be fully lost, and noe hopes of Peace and so never to Injoy that againe, but by his Majestys Restauration which as it gave opportunity to his Loyall and sober party to Act, for him in England, so vnder God, was not the least of Motives, which so Earnestly inclyned the Peoples hearts to submit to their due obedience to his Majesty.

That since his Majestys happy Restauration I was by agreement to my Lord Arlingtons desire, made Consul of Cadiz and Port S^t Mary to be serviceable to his Majesty which hath proved extreemely to my Cost and prejudice being thereby forced to leave the partnership of Anthony Vpton (which was so beneficiall) and there being other pretenders by former Patents¹ to the Place of Consul, I was put to contest for the same, and at my Lord Arlingtons Request, to leave it to one Mons^r Wescombe (now Sir Martin Wescombe) and come for England, Though at my comeing I made it appeare that I had done more for the nations good The time I was Consul then ever any Consul had before and obtained more Priviledges for the good of the Commerce from the King of Spaine at my owne Charge as by the Cedula doth appeare, and that his Majesty's fleet being before Tanger, vnder the command of the Earle of Sandwich expecting the arrival of the Earle of Peterborough to take possession of that Place the Earle of Sandwich was pleased to acquaint me with what want his Majestys fleet was of all sorts of Provisions and no money wherewith to buy them (if were to be had) and the Portugueses of the Garison knowing the order for its delivery and Wavering in their opinions what they should doe and also in the like straits for Provisions, I therevpon furnished his Lordshipp with 50,000 peeces of 8 vpon his bills for England vpon the Treasurer of the Navey; which was to mine and Correspondence [*sic*] prejudice paid long after due by Tallyes to losse And then I obtained an Order from y^e Duke de Medina Celi who ever had professed himself our Kings friend, And soe I there intimated to the Earle of Sandwich that he should soe take Notice, and Write his Grace Accordingly, so that the order from the Duke was that the Provisions and Wynes shiped by the Consul for the King of Englands fleet were not to pay any Customes or Excise but shiped free as if they were appointed by him for the King of Spaines Armada which as it were never granted before, soe never was since my comeing away Though hath been en-

¹ Sir Francis Bedingfield and the writer's younger brother, Thomas Rumbold.

deavoured by the Ambassadour at Madrid, and vpon which occation I have my Lord Sandwich his Letters to show, in which hee is pleased to write me in these Express Words following one clause of an Originall Letter is in my Lord Arlingtons Possession and other a Vouchers to this Relation, he sayeth

That had it not been for the Provisions and moneys you Sent me his Ma^{ty} fleet must have perished & his Interest in Tanger not having Provisions aboard for 4 dayes nor the Garison any left which I was forced to take Possession of being these 2 months in Expectacon of fresh supplyes, all which good services I shall present to his Majesty the King our Master (God sending me to Arive in England) and procure wherein (by Sr Henry Bennetts helpe) they may be your Advantage, and I nowe againe send the Purser Generall M^r Lever with other bills for more Necessarys, and also if possible you can get lycence for a ship of Wheate laden and sent to me

Which accordingly I performed & laded his Maj^{ty} Ship y^e Montague Capt. Vtbar Commander with 6000 hanegate¹ of Wheate & 1000 of Meale where with my Lord Sandwich supplied Tanger with part and carryed the Rest with him for Lixbon where it was sold to great Advantage all which good Services & many other I omit to relate, have hitherto almost been forgotten, my Brother Rumbold Dead, and his children destitute, & with me sufferers by their fathers engagements, and his Place in the great Wardrobe (of which they might have hoped to have made some advantage, hee being agent for the Reversions and his Moiety for the good of his Children) is now otherway disposed. And I for my Particular (Since the Commission for Prizes Expired) vtterly disappointed of a livelyhood, all which I confide wilbe taken into Consideration and represented to his Majesty That neither I nor the children of him who ventured our lives engaged and Spent our Estates to assist his Majesty and procure his happy Restauration may thereby onely be brought to Perish for want and soe be a scorne to those that opposed it.

¹ *Fanega*, Spanish measure, equal to a bushel.

And having shewed by the foregoing relation that the cocation of my present sufferings came by my Brother Rumbolds great Zeale to his Maj^{tie} and Service, as well as mine, I cannot but mencon some of his Services, being to long to relate the Particulars as they are well known to his Maj^{tie} (if put in minde) and all those of his sober party that ever acted or put their helping hand for his Maj^{ty} assistance abroad, or Restauration to his Kingdome, and lived to represent many of them and their services to his Maj^{ty} that have received favour and reward, which according to his nature spent himselfe for others, and lived not to doe his owne businesse nor pay his debts and redeeme his Estate, onely engaged for his Maj^{ty} Service. But soe long as to Crowne the Work and give to vnderstand a Generall¹ (to use his owne word) (soe Morose to the Cavallier party) that it was his Interest to adhere to them, which in Effect were, Soe all those that Petiçoned for a free Parliament and so was by my Brothers meanes howerly told by the Lady Wale (in whose house they then lay) his after Dutches that was made first senscible of their preservation, and future happiness was onely soe complying, and though my Brother dead, and therefore much, he was any way Remembred yet the Generalls Chaplin Doctor Gumble who hath written the History of the Generalls life cannot but say that my Brother was Instrumental in bringing to passe that good Worke (and the paines he therein tooke) Though in said Booke the Doctor (like a Loyall Servant) Strives to make out that the Generall had a designe all along to bring in the King. How ever he did not declare vntill Necessity obliged by the Citys Vote in Common Councill & those that ventured their lives for the same will Justify what hand my Brother had to gett that Vote passe and more it will be granted that his Maj^{ty} Commission in blanck were Intrusted in his hands and by him filled up and delivered to them that were thought faithfull to Act by them in Penrudocks and Sir George Booths and other engagings tending to his Maj^{ty} Service. And although was by one of

¹ Monk.

his Maj^{ty} Councill (then held in England) Betrayed¹ and indured the hardest measure of inprisonment and Examination imaginable yet it will be avowched by hundreds yet living (and many Loyall Persons that suffered imprisonment then with him), that what ever Will Rumbold suffered of one side and the Great proffers made by the Tyrant of the other that he was ever faithfull to that Loyall party whose lives and Fortunes lay in his Brest And readier to lay downe his owne for his King and Countrey than any of them in the least, by his meanes suffer, and S^r Richard Willis that informed Cromwell how much it imported his safety and preservation to take of my Brother from acting and corresponding with his Ma^{ty} yet he had soe much shame or principall (*sic*) of constance, to Article with y^e Rebells that they should never bring him as a Witsnesse, to take away the life of soe honest a Man, which Reason of his, then Preservation S^r Samuel Moreland may Witsnesse (though Thurlow dead, that could better) and soe did declare after his Maj^{ty} Restauration and these his services as well as mine soe little Remembred and I more vnhappy that am forced to Revive them that others may not fully make use of them, which some in part have and I hope without offence to any may be written in honour of his memory, How modest he was, and noe Courtier of the times, and by a Lingring decease [*sic*] by his Constant paines and Care (the Kings whole businesse then lyeing vpon him, Dyed and so impoverished by that Service his relations and I his Brother who assisted him therein for the good of others who Enjoy the benefit and many that never knew to doe their duty or would not owne it, which I againe Pray may be by some good men and friends to Loyalty now in power that will have so much compassion and please to represent these, to his Maj^{ties} consideration before I his Brother alsoe dye and Perish for want, who have spent and lent soe great sums to his Maj^{ty} and his freinds then Employed by his Maj^{ty}s Orders who then were not in capacity to help themselves.

¹ The person thus charged is Sir Richard Willis, as would appear from a passage later on.

Or att least that the said Henry Rumbolds Petiⁿ to his Ma^{tie} may be heard before the King and Councill whereby he may Receave Repara^{on} for his Consuls Place of Cadiz & Port S^t Mary &^c that is detained from him without any dismerit made out against him since the s^d Rumbolds comeing for England, for if any Person can make appeare that Henry Rumbold did ever Act or doe any disservice, or anything tending to his Ma^{tie} or Kingdomes disadvantage, the s^d Rumbold will acquit all pretences to the s^d Place of Consull, And more over willingly submitt to the Highest Punishment, But to the contrary did doe such Services dureing the time of his being Consul as never was performed before nor since, w^{ch} is soe sett forth in the s^d Rumbolds Peti^{on} to his Ma^{tie} that hath layne soe many Yeares Dormant in the Office of the Clarkes of the Councill, and hath not been able to get his agravances [*sic*] heard a frenchman born being in Poss^{on} of the s^d Place of Consul, against whom have been severall complaints from the merchants of his Ma^{tie} and heard at the Councill board. And there fully made out, and alsoe from the Spaniards for the s^d Consul of Cadiz his vnlegal proceedings, in the time the [*sic*] have had warr with france, for the w^{ch} the s^d now Consul of Cadiz was made Prisoner there,¹—And for all this still kept in; first by the then L^d High Treasurer Clifford the s^d Consuls wyfe being an English woman and related to the s^d L^d Clifford and since vpheld by others in power, Notwithstanding the s^d Rumbold, had never admitted of the place of Consul, haveing other better employm^{ts}. But did it att my L^d Arlingtons desire, whereby to Continue to be in a Capasity to doe his Ma^{tie} further service, And then Paid 2000 peeces of 8 for the s^d Place of Consul, for all w^{ch} noe satisfac^{on} hath been given to the s^d Rumbold, whom trusts however his soe long sufferings, that Yett before hee dye, will be Alsoe at last Considered, w^{ch} is the dayly Prayer of Ditto Henry Rumbold.

¹ Sir Martin Westcombe continued for many years Consul at Cadiz. The (as yet uncalendared) Foreign State Papers for 'Spain' at the Public Record Office contain a full account of his arrest and imprisonment. He was created a baronet in 1699.

(Endorsed : 'A Particular of the Services performed by H. Rumbold for his Majesty.')¹

Previous to the discovery of the preceding document I knew little of these Rumbolds beyond a family tradition that they had taken some part in the events that marked the troublous period of the Civil War and Commonwealth. One of them had unquestionably held an office of trust in the royal household after the Restoration, and it was believed that another had been employed as Consul in Spain. With the clue afforded me by Henry Rumbold's recountal of his grievances, I have been able to reconstruct, in a great measure, the history of two or three generations of the family, and although the search has been a laborious one, and its results are even now far from complete, it has yielded certain facts which are not without general interest as throwing a side-light on the history of the times.

The late Mr. Alfred Kingston, of the Record Office, to whom, as well as to Mr. Hubert Hall, I am indebted for infinite courtesy and valuable assistance, first directed my attention to the as yet uncalendared papers relating to Spain. From the numerous bundles contained in that series I extracted some thirty letters or despatches of Henry Rumbold, which I was able to supplement later on by upwards of a dozen more, derived from the Clarendon State Papers and the Carte MS. at Oxford, the MSS. of Lord Bath, Lord Ormonde, Sir Richard Graham, and other collections. Altogether I have, up to the present, traced nearly fifty letters addressed to the King, to Hyde, to Lords Sandwich and Peterborough, to Arlington, and to Secretary Williamson. It is possible that a good deal more relating to the family may yet be found among the manuscripts belonging to the Duke of Grafton, which contain, I presume, the correspondence of Lord Arlington, the chief patron of the luckless Henry and his relations. The letters extend from April 1661 to February 1682.

At the first date Henry Rumbold had been installed for

¹ British Museum, Add. MSS. 17,018, ff. 149-151, Hyde Papers.

nearly a year as Consul for Cadiz and Port St. Mary's. Sir Henry Bennet, writing to him from Madrid on May 18, 1660, engages to use his best endeavours to procure the appointment for him 'by representing his merits and those of his family.' Accordingly, the warrant for his commission is dated September 13 following. Scarcely, however, had he obtained the post when he found himself confronted by an anterior patent constituting a Sir Francis Bedingfield (described as of Bedingfield, Suffolk) together, strangely enough, with Henry's younger brother, Thomas Rumbold, joint Consuls-General for all Andalusia. Bedingfield, in a petition dated January 2, 1661, states that he has held the place of Consul for San Lucar, 'Cales and Civilia' for seventeen years, 'having been chosen by the fraternity of St. George in 1644.' In support of his pretensions he sends in an authenticated copy of a paper showing that, as far back as 1603, William Davis had been granted the office of Consul for San Lucar de Barrameda, Ayamonte, and Malaga 'by the brethren of the Order of St. George' in the place of John Deane, deceased. The correctness of the paper is attested by 'the merchants of the English nation resident in the City of S. Lucar de Barameda, and in that of Port St. Mary, Cadiz and Sivill,' the first signatures, by a curious chance, being those of Henry Rumbold and Anthony Upton, his partner. It is evident from this paper, and from various statements made in the correspondence to which the contest between Bedingfield and H. Rumbold gave rise, that the body of English merchants residing in Spanish ports or trading thither formed a sort of guild or corporation, and claimed the right to elect their Consuls from among themselves, subject to confirmation by the Crown. They likewise appear to have themselves regulated the fees payable to the Consuls for their services, under the name of 'consulage,' for by a document, dated London, February 16⁶⁰/₃, the candidates for the much coveted consulate of Cadiz enter into an engagement with the principal merchants in the Spanish trade, at the head of whom figures Sir John Frederick, at that time,

Lord Mayor, as to the charges they will be contented with. Sir Martin Westcombe, one of the candidates, who afterwards held the appointment, complains bitterly of the pressure exercised in this matter by the trade, and the whole correspondence shows that the Spanish factories at that date were very exacting with their Consuls, and at the same time affected great independence towards the Home Government.

The controversy between Henry Rumbold and Bedingfield was decided in favour of the former, thanks to the interest of his patron, Arlington, but not till after the whole question of the King's absolute right to appoint to consulates had been referred to the law officers of the Crown, and very properly decided in the affirmative by the Solicitor-General Heneage Finch.¹

Although confirmed in his appointment, Henry Rumbold only held it for three years, during which he seems to have been in constant trouble, owing to the hostility of the community, whom he speaks of as 'a crew of Presbyterians, Quakers, and Independents,' who detest him for his loyal sentiments and accuse him of pandering to the Spanish authorities, and being a Papist in disguise. That he was on intimate terms with the Spaniards he, to a great extent, himself admits, while, as to the question of religion, it is affirmed, in a curious paper endorsed 'Richard Bakers Propositions to his Majestie concerning the marchandizing affaires of Spayne,' that none but Papists were admitted as Consuls by the Spanish Government, the writer recommending that 'all should be dispossessed and Protestants put in their place.' Bedingfield, who was unquestionably a Roman Catholic, was certainly backed up strongly in London by the Spanish Ambassador, Caracena. As for Rumbold, he was twice married in Spain according to Catholic rites, though it is probable that on his return home he found it convenient, like many others, to conform, outwardly at least, to the reformed faith.

Of the 'crew' with whom he had to battle some idea is

¹ Public Record Office, 'Foreign, Various,' No. 216.

given by the arrival, which he reports, of 'one Corbet, sonne to Myles Corbet,' the regicide. That some of the new comers, however, were of a very different complexion may be seen from a letter dated February 16th in the Spanish papers, in which a certain John Shaw asks for an introduction for 'Mr. Benjamin Bathurst, Merchant, who for his Loyalty is at present fallen into some disturbance in England and would willingly goe to Reside at Cadix or Puerto S^{ta} Maria in Spayne.' Bathurst, who was afterwards to take so active a part in public affairs, settled at Cadiz for some years, and succeeded Henry Rumbold in his partnership with Anthony Upton. A considerable intimacy must have existed between him and the Rumbolds, for he appears as trustee and executor under the will of Henry Rumbold, the son of the Consul, and was mixed up in some Chancery proceedings afterwards instituted by the young Rumbolds against their guardians. In Sir Benjamin's will, dated December 7, 1703, a bequest of 150*l.*, together with an annuity of 50*l.* for life, is made in favour of 'Doña Isabella Maria, a nun in the Convent of the Passion at Seville.' Do we not find trace here of some old Spanish love-story of the cofferer of Queen Anne?

For the rest the Consul's despatches contain numerous characteristic bits of information respecting events in the Peninsula; the campaign of Don John of Austria in Portugal; the fitting out of Spanish squadrons, sadly delayed by lack of funds and official incapacity; the movements of the treasure-laden galleons from New Spain; and, as of nearer concern to ourselves, the last accounts from Tangier, where Peterborough and, after him, Rutherford are busily engaged in strengthening the recently acquired fortress and repelling attacks from the fierce hordes of Gaylan. Much of the Consul's time was devoted to procuring provisions and succour of various kinds for the much-harassed garrison, or forwarding reinforcements to it in the shape of batches of 'lusty red-coats,' who had deserted after the fall of Evora in Portugal.

To Tangier he likewise sent his son Henry, that youth

having just come out from England, where he had been educated under the care of his uncle William. Lord Peterborough at once gave him a cornetcy of horse, and we get from the father's letters one or two vivid glimpses of the young fellow's life in that garrison, where he shared lodgings with the son of another staunch Royalist, John, Lord Mordaunt of Avalon and Ryegate. He sends home a complaint of the insolence shown him on parade by an Irish colonel, of the name of Farwell, who owed his father a grudge for not appointing as Vice-Consul one of his friends. Lord Peterborough stands by him on this occasion, and sternly rebukes the blustering Milesian. We hear, too, of a brilliant sally, headed by the new Governor, Lord Rutherford¹ (afterwards Earl of Teviot), when a large body of Moors are engaged and routed by a party of forty horse, young Rumbold bearing himself well, and his charger being killed under him.

Meanwhile the elder Henry's position had become untenable, as he himself allowed. The factory appear to have starved him out, while his repeated applications for a fixed salary, which should make him independent of them, remained unheeded. In September 1663 he was relieved by Martin Westcombe, and made arrangements for returning home, not, however, before taking unto himself a second wife (his first wife, Isabel de Avila, the mother of young Henry, having died a short time before) in the person of Francisca Maria Janson, or l'Anson, the daughter of Sir Brian l'Anson, a merchant at Cadiz, whose father (Brian) had been created a baronet for his loyal services to King Charles I. He reached England in the 'Phoenix' frigate in November, and from that time onwards his anything but prosperous career becomes more difficult to follow. He was appointed a Gentleman of the Privy Chamber in Extraordinary in December 1663, being sworn in by his brother William. Although continuing to hanker after his late employment in Spain, he obtained a fairly lucrative post as one of the commissioners for the sale of prizes taken from the Dutch. In the meantime he had

¹ Pepys, under the date of July 25, 1663, mentions this engagement.

succeeded in getting, through Arlington, a new patent as Consul for Malaga, Seville, and San Lucar. With a praiseworthy forgiveness of injuries he put in his brother Thomas as deputy to act for him at the latter port, Thomas having married a rich widow, Doña Rafaela de los Cameros, 'who owned houses and other haziendas' there. Thomas, by the way, who plays a subordinate part in the family history, went on residing in Spain, and is mentioned as Consul for Seville, San Lucar, and Ayamonte in 1684 and 1687.¹ He died at San Lucar, and was buried there January 19, 1706. Henry himself never took up his new consular appointment, though he did not surrender his patent for several years. There is a large batch of letters in the Spanish papers from and about one Humphrey Colston (of the Bristol family) who is anxious to oust Rumbold from the consulate at Malaga, and, in true seventeenth-century fashion, is prepared to pay the necessary price. One of his letters to Williamson is a curiosity in its way. If Williamson, he says, will finally arrange the matter, he may reckon, in addition to the money for which Rumbold is willing to give up the patent, on a horse of the value of fifty pounds for himself, besides a yearly present of a hogshead of wine in recognition of his good offices.

The last letter I have thus far traced of Henry Rumbold is dated February 13, 1688², and propounds a scheme for a reform in the revenue upon hearths, which he submits to Arlington.³ He was apparently then without employment, having failed to obtain the post of commissioner for the said

¹ Chamberlayne's *Angliae Notitia* (Consuls in Spain).

² Since the above was written I have been obligingly furnished with a copy of a Memorial by Henry Rumbold from the MSS. at Netherby which, although undated, is addressed to James II., and must, therefore, be posterior to February 1685. One passage from it is perhaps worth transcribing, as showing considerable sense, though less discretion: 'And indeed at that Time before the Marriage to the Queen, Y^r Peti^{or} did his Duty, writing to England, how inconvenient & chargeable the Garrison of Tanger would be to his Ma^{ty}, for which Advice Y^r Peti^{or} did after much suffer by the Displeasure incurr'd from the Earle of Clarendon L^d Chancellor however when M^r Shears, now S^r Henry Shears, write a Book intitled The Grandure of England by Tanger, the S^d booke y^r Peti^{or} did answer, and make out, what a great Fallacy He therein asserted, and that in Truth it was

revenue, as also that of Surveyor to the Great Wardrobe. Sporadic notices of him are to be found here and there, Sir John Reresby, for instance, mentioning under the date of November 25, 1680, that he had met him and received from him certain somewhat scandalous statements about Queen Catherine of Braganza. He vegetated some ten or twelve years longer in anything but flourishing circumstances, for his son, whom he apparently survived, leaves him in his will, dated December 17, 1688, 40*l.*, to be paid quarterly. He must have died after 1690.

His elder brother William, who had been made Comptroller of the Great Wardrobe,¹ and Surveyor-General of the Customs at the Restoration, had long preceded him, dying, May 27, 1667, in his house at Parson's Green, Fulham, where he is buried, in the Chancel of All Saints, with his wife Mary, daughter of William Barclay, Esquire of the Body to King Charles I. William Rumbold was unquestionably one of the worthies of the small and faithful band who successfully laboured to bring the King back to his own, and, notwithstanding Pepys's sneer at the 'courtiers and pomp' attending the christening of his child at the Wardrobe,² is spoken of with great affection by Lord Mordaunt, Colonel Henry Norwood, Andrew Newport, and others, who had worked with him and with him shared captivity and persecution.³ One interesting trace of him I recently came across in his signature in the Vellum Book of the Honourable Artillery Company entered among those of other guests entertained at a banquet in September 1663. His will, witnessed by Lord and Lady Mordaunt⁴ his friends and neighbours, and that of

by it, taking a Burden from Portugal to lay upon England's Shoulders, as by the S^d answer fully appears, wth was delivered to Ministers of State, before that Garison was blown up, to be perused by them, who never permitted to print it.'

¹ He had entered the office of the Great Wardrobe in 1629, when about sixteen.

² Pepys's *Diary*, December 8, 1661.

³ He was imprisoned for upwards of two years, first at the Gatehouse and then at the Tower.

⁴ That curious book, the *Diary of Elizabeth, Viscountess Mordaunt*, discovered at Tullymore by the late Lord Roden, and published by him, contains an

his wife, who survived him only a few months, show that he left four children under age. The eldest of these, Mary, married James Sloane, M.P. for Thetford, elder brother of Sir Hans Sloane, the second daughter, Jane, becoming the wife of Richard Hosier, a Shropshire squire. The only son, Edward, succeeded his father as Surveyor-General of Customs, and after marrying Anne, daughter of George, fourth Viscount Grandison, by whom he had no issue, died at Enfield in 1726.

Henry, the son of the Consul, went on serving at Tangier, mostly in the Earl of Middleton's regiment, till 1671, the Tangier papers affording occasional notices of him as sitting on courts-martial, or forming part of the commission for letting houses. He also figures as a Papist in a curious list showing the different religions professed by the officers of the garrison, who, for the most part, so Pepys informs us, were of the Catholic persuasion. In the summer of 1671 he escorted Lady Middleton home, and on that occasion there sprang up an attachment between him and a daughter of Sir Robert Paston, afterwards Lord Yarmouth, who was apparently travelling with Lady Middleton. The story is somewhat coarsely, but wittily, told in some extremely curious letters (in the MS. of Sir Henry Ingilby, of Ripley Castle) from Richard Brockenden to Sir Robert Paston.¹ The young lady's family were entirely opposed to the match, while she was as determined to marry the soldier-adventurer to whom she had pledged her faith, even though shut up and kept in durance vile by her hard-hearted parents. There is a very graphic account of a conversation between S. Henshaw and Lord Mordaunt at the latter's residence at Parson's Green (on the site now occupied by Peterborough House), adjoining apparently the family abode of the Rumbolds, when the old

i interesting proof of the regard felt for William Rumbold by the Mordaunts. On June 1st, 1664, Lady Mordaunt, in her daily prayers, includes a special thanksgiving 'for the recovery of Mr. Rumball now restored to perfit helthe by thy mercy, which bringes me now upon my knees to returne thanks to thee my God, &c.'

¹ Hist. MSS. Com. 6th Rep. p. 369 b.

lord recounts his fruitless efforts to induce young Henry, 'who is walking in the garden yonder with Lady Falmouth and others,' to release the lady from her engagement to him. Unfortunately a provoking gap occurs in the letters, so that we are left to conjecture what was the ultimate outcome of this love affair. The Paston pedigrees, however, only speak of one daughter of Lord Yarmouth, Margaret, married to Hieronimo Alberto di Conti, 'a German,' so that we must assume that parental rigour ended by carrying the day.

Henry Rumbold the younger was, nevertheless, married twice, and left descendants, who entered the service of the East India Company, and have continued his line down to the present time. Owing to sad havoc among family papers I have not, thus far, been able to ascertain what employment or pursuit he engaged in after his return from Tangier. Possibly he may be identified with a 'Mr. Rumball' (for I need scarcely point out that the name appears under various forms, thanks to the lax spelling of those days) whom Louise de Kérouaille sent on a confidential message to Monmouth in 1679, and whom she speaks of as 'the gentleman of my horse.'¹ He seems, at any rate, to have been a man of substance, and left property, which, after his death, was the subject of a good deal of litigation.

¹ *Notes and Queries*, 7th S., II. July 17, 1886. 'A Letter to Monmouth.'

THE INQUISITION OF 1517. INCLOSURES AND EVICTIONS.

EDITED FROM THE LANSDOWNE MS. I. 153. BY I. S. LEADAM, M.A.

PART I. INTRODUCTION.

Professor Ashley on 'The Character of Villein tenure,' and its Relation to Inclosure—Inherent Improbabilities of Professor Ashley's Theory : (1) From the Yorkist Position ; (2) From the Tudor Policy ; (3) From Absence of Evidence—The Acts of 1488 and 1515 for Restraint of Inclosures—Limits of the Commission of 1517—The Returns of the Record Office and of the Lansdowne MS.—Illustrations—Areas embraced in Returns—Absence of Uniformity in Returns. Examples. Inclosures : (1) By Tenants ; (2) By Landlords—Characteristics of the Returns for the Different Counties—Sympathetic Description of Evictions—Boldness and Impartiality of the Commissioners—The Commissioners call Attention to the Losses of Tenants by Inclosure—Legal Position of Persons concerned mentioned in Yorkshire, where Persons evicted clearly not Copyholders—Indications of Tenure in Herefordshire, Hants, and Norfolk. No Sign of Evictions of Copyholders—Inclosures of Demesne Lands by Farming Tenants, with and without Evictions—Inclosures by Lords with Evictions—Inclosures by Copyholders—What Class of Tenants were evicted ? The Evidence supplied by the Herefordshire Returns—The Persons so described Tenants at Will at Common Law—The Gloucestershire Cases of Evictions of Copyholders—The Commissioners' View of the Duke of Buckingham's Proceedings—Report of the Surveyors of the Duke of Buckingham's Estates. His Expropriations of Freeholders—The Duke of Buckingham's Arbitrary Conduct a Cause of his Ruin—Corroborative Evidence derived from the Statutes that the Persons evicted were not Copyholders.

Coke's Statements as to the Security of Copyholders in his Day—Professor Ashley's Views upon this—Confusion of Writers upon the Subject of Copyhold Tenure. Copyholders, Pure Villeins, Villeins Regardant and in Gross. Fitzherbert and Smith on the latter—Servi of Domesday. Villeins in Gross—Horne's Description of Nayfs—Naifty and Pure Villenage. Its Characteristic ; Liability to Uncertain Services—The Divisions of a Manor. The Waste Lands—The Divisions of the Demesne, Bord Land, Inland, and Upland. Tenure *ad voluntatem*—The Conditions necessary to Tenure strictly '*ad voluntatem*' : 1) Demesne ; 2) Villenage of Blood. Customary Lands held by

(1) Villeins ; (2) Freemen. Liberi Tenentes—Britton's Definition of Villenage. Pure Villeins in Ancient Demesne—Tenants in Ancient Demesne—Horne's Differentia of Villenage. Possession of Property—Laws of William the Conqueror as to Villeins—Distinction maintained in Laws of William the Conqueror between Villeins and Nayfs—The Distinctions between Villeins and Nayfs—The Absence of Reciprocity between Status and Tenure stimulated Transition from Demesne to Customary Land. Terra Assisa—Demesne Lands jobbed away by Guardians in Chivalry—Certain Legal Inferences of Status from Tenure—Extent to which the Law Courts carried these Presumptions—Bacon's Appreciation of the Extent to which Status affected Tenure—The Verge. Its Real Significance. Britton's Evidence—The Verge and Villeins of Ancient Demesne—The Distinction maintained between the two sorts of Villein-tenure—Customary Tenants. Fitzherbert identifies Copyholders and Bond, and all as Tenants in Villenage—Fitzherbert's Views dominated by his Views on Agricultural Inclosure—Criticisms of Elizabethan Lawyers upon Fitzherbert's Identification. Calthrope—Coke's Criticism of Fitzherbert. Antiquity of Term 'Customary Tenants'—Customary Land = Land holden in Villenage. Customary Land held by 'Nativi'—Evidence that these were protected while they rendered their Services. Fealty, Fitzherbert, Littleton, Coke, Stubbs—Case in Year-book, 1358-9—Other Evidence. Case to the contrary alleged by Professor Ashley at Cirencester considered—Reason why Villeins by Blood holding in Villenage were still distinguished as 'Nativi.' Villein services—Villeins *ratione sanguinis* liable for Tallages and for Villein Services. Fleta. Moderation of Tallages enjoined—Hence retention of the Phrase 'ad voluntatem.' Its Absence = Frank Tenure—The words 'secundum consuetudinem manerii.' Why Introduced—'Ad voluntatem' at Common Law distinguished from 'ad voluntatem' on Customary Holdings. Littleton's Statement that 'ad voluntatem' is compatible with an Estate of Inheritance—Influence of Ancient Demesne upon the Manorial System—Unfounded Claims of Tenancy in Ancient Demesne—Commutation of Services common on Crown Manors. Also on Ecclesiastical—Commutation of Services and the Pestilences of the Fourteenth Century—Indications of Demand for Labour and Cheapness of Land—Enrolment on the Court Rolls one of the Consequences. Advantage to the Tenants.

Admission to Customary Land—In theory originally a Concession by the Lord. Legal Inference as to this Concession—The Common Law in Littleton's time affected to recognise only the Rights of the Freeholder. In effect, the Common Law did assist the Copyholder. Changes in the Doctrine of the Common Law—Intervention of Chancery. Coke's Account of the Constitution of Customary Courts—Coke's Account unhistorical. The Tenants anciently the Judges of the Courts. Evidence of this—The Functions of the 'Suitors' of the Manorial Courts—The Composition of the Customary Courts. Courts Baron and Customary Courts—The Doctrine that Freeholders were necessary to a Manor. Freeholders and Courts Baron. Decay of Courts Baron—The Place of Freeholders in Customary Courts—Evidence from Kitchyn and Littleton—The Customary Courts and the Improvement in the Position of Copyholders—The Crown led the Way in the Equitable Treatment of Villeins—Action of the Court of Chancery *temp.*

Richard II. Protests of Parliament—The Extension of Chancery Jurisdiction *temp.* Richard II. to Edward IV.—Littleton on the Rights of Copyholders against their Lords—The Learning as to the Rights of Copyholders against their Lords prior to the time of Littleton—The two Cases upon a Copyholder's Common Law Rights against his Lord cited in Littleton, *temp.* Edward IV.—The case 7 Edward IV. (1467) considered—Danby, C. J., on Petition and Remedies in Chancery—The Common Law Action of Trespass not a Possessory Action, but an Additional Remedy—Bacon's Summary of the History of Copyholders' Remedies—The Case 21 Edward IV. considered. Dictum of Brian, C. J.—The Judgment of Brian, C. J.—Early Settlement of the Law as to Copyholders' Remedies—Consideration of a Case heard in 1505 on the Rights of Copyholders—Modes of Oppression of Copyholders. Fines. Law of William the Conqueror as to Villein's Relief—Villein's Relief as fixed by early Lawyers. Custom and the succession of Heirs to Copyhold. Case *temp.* Elizabeth considered—Refusal of Admittance to Heir and Subpoena. The Law as to Fines. 'Reasonable' Fines—The Assessment of Fines—Fines and 'Nativi' holding Customary Land. Example in Manor of Castle Combe—Common Law Remedies for Tenants in Ancient Demesne—Objection that the Legal Protection for Copyholders was not really available, considered—Evidence of the Continuity of Copyholders' Families on Manors—The Wastes of the Manor. Doctrine established by Statutes of Merton and Westminster—Tenants both of Demesne and Wastes unprotected, save in the case of Leaseholders—Fitzherbert's Book on Surveying speaks of Inclosures as made of Demesnes or Wastes—Fitzherbert's Language as to Oppression of Tenants confined to Tenancies of Demesnes and Wastes—Tendency of Landlords to oppress Copyholders—Endeavours to modify Copyhold Tenure to the Advantage of the Lords. General want of Success—The Copyhold Tenure the Desire of the Northern Insurgents in 1536–7—Summary of the Results of this Inquiry.

¹ THE hundred years dating from the middle of the fifteenth century witnessed the rise and development of the greatest of those agricultural revolutions which have in successive ages swept over this country. This was the transition from arable to pasture farming, by which an industry, before that time regarded as a source of sustenance, acquired commercial importance, and began to be prosecuted upon a wholesale scale for the profit of the capitalist and the landowner. During the first decade of the fifteenth century wool was commanding an enormous price. For this the agricultural and

¹ This essay was in print before I had seen the recent masterly work on *Villainage in England*, by Professor Vinogradoff. I am, of course, only concerned with villenage so far as what we know of it throws light upon copyhold tenure and on the security enjoyed by copyhold tenants. It will be seen that I do not altogether concur with Professor Vinogradoff in his view of the legal position of villeins. I have added a few references to his work in the notes.

industrial disorganisation following upon the pestilences of the previous sixty years was, no doubt, largely accountable. But to the foreign demand, which had long been established, that of the English cloth manufacturers was now adding its pressure. Prices reached their maximum for more than a hundred years to come in the decade ending 1430.¹ The fact of their continuous decline from this date shows that the land-owners were making haste to increase the supply. To effect this, it was necessary to convert extensive areas to pasture hitherto devoted, in the language of the time, to the 'maintenance of tillage.' As this change involved a diminution of the number of those engaged in agriculture, it was accompanied by the eviction of those thereby rendered without occupation. These evictions denuded the rural districts of their population, and crowded the towns with misery. From poets and preachers, from students and from statesmen, came a chorus of condemnation of the barbarity with which this change was effected. Successive governments endeavoured to check its rapidity or to mitigate its consequences. It is worth while to examine the conditions of a movement which played so large a part in our social history, and which has left its marks down to the present day upon the pages of our statute-book.

While the statutes of Parliament and the language of popular writers of the sixteenth century concur in denunciation of the evictions, no suggestion is made that the landlords were exceeding their strict legal rights. Upon this fact an ingenious hypothesis has been constructed by Professor Ashley in a work recently published on 'The Character of Villein-Tenure.' He remarks that, both in the commentary upon Littleton and in the 'Complete Copy-holder,' Coke insists upon the perfect security in his day enjoyed by the customary, or copyhold, tenant. That security Professor Ashley ascribes to a judgment delivered by Brian, C.J., in 1482, which is mentioned by Coke. He infers from the subsequent evictions that the judgment in

¹ Rogers, *Hist. Ag.* iv. 328.

question was a political decision, given by Yorkist judges,¹ with an animus against the landowners; that it was upset, though by no judicial tribunal, when the Lancastrian party became dominant after the accession of Henry VII.; and that, again without the intervention either of Parliament or of the judicial bench, it was restored, at some time unknown, before the time of Coke.

To this theory some obvious difficulties at once present themselves. It is true, no doubt, that the Yorkist party, like the Whigs of a later date, derived its support less from the landowners than from the people. But the people upon whom it leant were the masses of the towns rather than the feudal tenantry of the country. The party also numbered in its ranks some highly influential landlords whose alliance it could scarcely afford to risk by an arbitrary invasion of their rights. On the other hand, the Tudors, as soon as they were settled in power, were zealous to attract popular favour. Henry VII. was no such friend to the aristocracy that he was likely to suffer the defiance by them of a popular judgment. Both in his reign and in that of his successor, Ministers and Parliaments were constantly engaged in devising means for checking the depopulation of the country districts. Yet we are invited to believe that the re-affirmation of the doctrine of Chief-Justice Brian by the voice of the judicial bench was a solution that never suggested itself to them. Fear of offending the interest of the landowners cannot afford an explanation of the abstention of Henry VIII.'s ministers from such a step. To the landowners neither Wolsey nor Cromwell was acceptable. They resented the enactment of statutes against inclosures, and obstructed the inquiries

¹ The assumption that these judges were Yorkists is very doubtful. Danby, one of the two to whom Professor Ashley refers, was more probably a Lancastrian, for he was appointed judge in 1452. It is true he was promoted to the Chief Justiceship of the Common Pleas in 1461, but he was continued in his office during the restoration of Henry VI. in 1470-71. The other, Thomas Brian, was made judge in May 1471, just after the battle of Tewkesbury, which led to Edward IV.'s restoration. But he was continued in office as Lord Chief Justice of the Common Pleas by Henry VII. Foss, *Tabulae Curiales*.

designed to enforce their operation.¹ Towards the close of Henry VIII.'s reign, when the leaders of successive insurrections alleged the inclosures as a principal grievance,² the temptation of the government to resort to judicial intervention in order to check evictions—a device quite in accordance with the practice of those times—would have proved irresistible.³ Yet nowhere do we find any indication that such a step was contemplated.

The conclusions drawn by Professor Ashley from the admitted fact of the evictions as to the general insecurity of copyhold tenure in the reign of Henry VIII. are based upon the assumption that the evicted tenants were copyholders—i.e. tenants holding, in the legal phrase, 'at the will of the lord according to the custom of the manor.' If this were so, no argument derived from text-books, or even from occasional cases, could weigh in the balance against the proof of actual practice. It happens, however, that we are in possession of contemporary evidence which shows that the assumption is unfounded; that the copyholders were among the evictors, not among the evicted; and that this last class was represented by another group of tenants, whose real position will be seen upon a closer examination of the history of tenures.

In the year 1488 an Act was passed (4 H. VII. c. 19) 'agaynst pullyng down of Tounes.' By this statute it was provided that owners of houses let to farm with twenty acres of land or more should maintain houses and buildings thereon

¹ In the curious indictment of the administration of Wolsey framed by Lord Darcy in 1529, under the designation of a 'remembrance,' it is alleged against him, 'We have begun to execute the statute of enclosings' (*Br. Cal.* iv. 5750). In Latimer's last sermon before Edward VI., 'Now on the other side, the gentlemen had a desire to keep that they had, and so they rebelled against the king's commandment,' &c. *Cp. Gaird. L. & P.* vii. 1445. The resistance was more marked at a later date. See Strype's account of Hales's commission.

² In 1537 in Lancashire, *Gaird. L. & P.* xii. 302. In 1536-37 in the Lincolnshire rising, and in the Pilgrimage of Grace, *ibid.* xi. 892, 1155, ii. 2, 1246, xii. 70, xiii. 392. Kett's *Rebellion in Norfolk*, F. W. Russell, London, 1859, p. 48; *Hales to Somerset*, July 22, 1548, *MS. R. O. Lem. Cal.* ii. 33.

³ 'Never did any government strain the legislation more resolutely in their (the labouring classes') favour.'—Froude, ii. 449.

necessary for tillage. The effect of this, it was anticipated, would so reduce the profits of conversions to pasture that the movement would receive a check. But the measure proved inoperative.

In 1514 a proclamation against engrossing farms¹ recited that the prevalent scarcity of grain and victuals was due to the engrossing of farms and to the conversion of arable to pasture. This statement it founded upon the report of the King's 'justices of the peace and commissioners of every shire within his said realme,' which implies that official inquiries had already been made into the evil complained of. The proclamation ordered that all the King's 'subjectes spiritual and temporall of what estate degre or condicion he or they be which now hath or hereafter shall have any moo fermes or tenementes of husbandry than one and intendith to kepe them in his or their own handes or that any other persone or persones hath to his use that thei and every of them do till or cause to be tillyd by the feste of Sainct Michell tharchaungel next commyng all suche landes lying or appertaynyng to all and every of their saide farmes and tenementes of husbandry as was occupied and usyd yn tillage at any tyme before the first yere of the reigne of the most noble prince of famous memory Kyng Henry the VII. next before the publishing of this proclamation and the landes being tillyd as is before saide contynually to exercise and use it in tillage accordyngly. Semblably that the said Engrossers immediately do cause all and every of the saide houses of husbandry yet standyng, whereunto the saide landes to be put in tillage as is beforsaide doo appertayne or belonge to be inhabitid and dwelt yn by husbandmen or laborars accordyng as it was before the engrossyng of the said houses.'

It may be taken that this proclamation had no effect; for early in the year 1515 it was followed by an Act 'concernyng the pulling downe of Townes,'² made perpetual, in effect, by

¹ MS. R. O., *Br. Cal.* i. 5727, 2. The 'Act concerninge the Isle of Wight,' passed in 1488, was also an Act against consolidation of holdings (4 Hen. VII. c. 16).

² 6 Hen. VIII. c. 5.

a similar Act passed during the session of Parliament in November of the same year.¹ By the last statute all 'towns, villages, borowes and hamlettes, tythyng houses and other enhabitations . . . whereof the more part the first day of this present parliament² was or were used and occupied to tillage and husbandrye,' were ordered to be rebuilt within one year. In order the more effectively to deal with the cause of the decay of houses, the Act further provided that all lands turned to pasture since the same date (Feb. 5, 1515) should be restored to tillage.

This enactment is evidence that the Government was fully aware of the failure of that of 1488. Nor had this second statute been long enrolled ere Wolsey realised that, in the absence of extraordinary measures, its fate would be that of its predecessor. On May 28, 1517, a royal commission was issued to the principal noblemen and gentlemen of the greater number of the counties of England. The commission, which is still preserved in the Record Office,³ opens with a preamble in the style of the Acts of 1515 and 1488. It describes the evicted inhabitants as 'agricolas et iconimos.' The scope of the commissioners' authority is thus assigned. 'Assignauimus igitur vos & duos vestrum ad inquirendum per sacramentum proborum & legalium hominum de comitatu Oxoniensi, Berkensi, Warvicensi, Leycestriensi, Bedfordiensi, Bukinghamensi, & Northamptoniensi⁴ tam infra libertates quam extra ac aliis viis modis & mediis quibus melius sciveritis aut poteritis que & quot ville quot domus & edificia a predicto festo prosternuntur & quot & quante terre que tunc in cultura erant & iam in pasturam conuertuntur necnon quot & quanti parci pro feris nutriendis citra idem festum includuntur et per quos vel per quem vbi quando qualiter & quo modo ac de aliis arti-

¹ 7 Hen. VIII. c. 1.

² *I.e.* February 5, 1515.

³ R. O. Pat. 9 Hen. VIII. M. 2 p. 6d., *Br. Cal.* ii. 3297.

⁴ This is the area assigned to one body of commissioners. Similar commissions were issued to the others. See *l.c.*

culis & circumstanciis premissa qualitercumque contentibus.'

The feast fixed as the retrospective limit of the inquiry was Michaelmas, 1488. Certificated returns of the commissioners' inquiries were to be lodged in Chancery at the Michaelmas then next ensuing.

Of these returns some, including apparently the whole or portions of some counties, are to be found at the Record Office, upon parchments much disfigured by time and ill-usage. These deal with Northants, Oxon, Leicestershire, Bucks, Beds, Warwickshire, and Berks.¹ Among the Lansdowne MSS. of the British Museum² is preserved another documentary memorial of this Inquisition, of which I have taken a transcript. It is on sixty-eight folios, apparently in nine different hands, but all upon the same paper,³ affording a presumption that it was written in one office. It is, on the face of it, not a set of original returns, for it occasionally refers to Henry VIII. as 'nuper regis.' It happens, by a significant coincidence, that, with the exception of a part of Berkshire, the original returns preserved in the Record Office are not included in it. In the case of this county also, there are indications that the Lansdowne transcript is an abbreviation of the original returns, apparently excluding some of them altogether.⁴ The counties embraced in the Lansdowne MS. are

¹ MS. R. O., Misc. Rolls &c., Chanc., Bundle 13 No. 14.

² MSS. Lansd. I. 153 ff.

³ With the watermark of a tankard or pot, whence the term 'pot' paper. R. Herring on paper and paper-making chronology, London, 1875, p. 19.

⁴ I subjoin an extract from each document for comparison: 'Et dicunt super sacramentum suum quod Thomas Elston gent. qui secundo die Octobris anno regni domini Regis nunc tercio tenuit & adhuc tenet ad firmam de priore de Poughley vnum messuagium & viginti quatuor acras terre arrabilis cum pertinentiis in Easthendrede in comitatu predicto & que terre seminari & arrari & cum messuagio illo locari a toto dicto tempore solebant predicto die & anno messuagium illud destrui & devastari fecit & sic hucusque tenet & tenementa illa valent per annum duodecim solidos & dictus prior in iure monasterii sui predicti seisitus existit de tenementis illis in dominico suo vt de feodo & ille tenet de domino Rege & ea occasione tres persone a suis mansionibus depriuantur, &c. MS. R. O.

This entry apparently answers to the following in the Lansdowne MS.: 'Prior de Poughley fuit seisitus in iure parochiatus sui de vno messuagio [et] xxiii. acris

Norfolk, with the exception of the hundreds of Clacklose, Happing, and Taverham; Yorkshire, N.R., excluding the wapentakes of Gilling West and Hang West; W.R., excluding those of Upper Barkstone Ash, Lower Osgoldcross, the liberty of Ripon and the Soke of Doncaster; E.R., excluding Winton Beacon in the wapentake of Harthill, the wapentake of Ouse and Derwent, the liberty of Beverley and the county of the town of Hull; five out of the ancient nine hundreds of Herefordshire; all the hundreds of Staffordshire except Totmonslow; eight only of the thirty-seven hundreds and eight liberties of Hants; the Isle of Wight; twenty-seven cases in London and Suburbs—this on the face of it a fragment; thirteen out of the twenty hundreds of Berkshire; seven only of the twenty-nine hundreds of Gloucestershire; five only out of the eighteen hundreds of Cambridgeshire; and Salop, except the hundreds of Cherbury, Clun, Oswestry, Overs, and Stottesden, and the liberty of Shrewsbury. The area thus covered, however disappointing to the statistician, is sufficient to afford ample indication as to the point now under discussion.

While the king's commission, which has been already quoted, marked out the scope of the inquiry, no form of return, with schedules specially arranged, after the modern fashion, was issued to the juries. Hence a considerable variation, not only in different counties, but in the several parts of the same county, in the expressions used, and in the amount of information rendered. Sometimes it is positively stated, or, as in

terre arrabilis in Esthundred annui valoris xii. s. Et sic seisitus secundo die Octobris anno tercio regis Henrici VIII^o messuagium predictum prosterni & terram in pasturam conuerti permisit.

The phrase 'conuerti permisit,' which is peculiar to the Berkshire transcripts, indicates that the incloser was the prior's tenant. The superior value of the original record is that it gives the names of mesne lords, and shows the status of the inclosers. It is noticeable that it recites the ultimate lordship of the king, a legal doctrine destined to play an important part at the dissolution of the monasteries. The doctrine is also implied in the form used of the prior's right of ownership, as being 'in dominico suo vt de feodo.' On this see Coke's *Complete Copyholder*, London, 1673, s. xii. The phrases 'tenet ad firmam' and 'locari' point to a lessee.

the Berkshire case already given, easy enough to be inferred, that the inclosure is the work of the tenant; at other times, where this is doubtful, a glance at the record of the manor in one of the county histories shows the name of the incloser to be that of the lord of the manor. Where the inclosure is by a lord of the demesne lands of a manor, this is generally expressed. For instance: 'Dux Bukyngham apud Brystwyke in dicto Est riding conuertit c acras terre de terris suis dominicalibus tunc in cultura in pasturam & quod nulla domus nec arratrum ea de causa prosternitur.'¹ Similarly, 'Henricus comes Northumbrie apud Iekenfeld in dicto Est-riding post predictum festum sancti Michaelis in elargacionem parci sui ibidem inclusit eidem parco xl acras terre tunc in cultura de dominicis terris suis & centum acras bosci & pasture.'² Here, too, though the fact that none took place is not expressly mentioned, no evictions are recorded. It is enough to say here that these lands were perhaps cultivated by persons rendering agricultural services, but were not actually tenanted by them.³

We pass now to the numerous cases of inclosures by the lords of manors accompanied by evictions. It will be observed that the terms of the commission do not specifically include inquiry into the number of persons evicted. Accordingly, in the returns for Norfolk, there is no record—in so many words—of any eviction having taken place. Even in the most extreme case mentioned, the destruction by the lord of the manor of 'vnum integrum hamelett cum omnibus tenementis,'⁴ no persons are reported to have been evicted, though from the very terms of the entry evictions must have occurred. The return generally concerns itself primarily with the question, 'Quot domus & edificia a predicto festo prosternuntur.' For instance, a common form runs as follows: 'Arpyngham. Thomas Mortoft habet vnum tenementum cum xxx^{ia} acris terre quodquidem tenementum decidit &

¹ P. 30.² P. 31.³ Cp. Digby's *Hist. of Law of Real Property*, 3rd ed. Oxford 1884, p. 49.⁴ P. 11.

terra que tunc in cultura erat iam includitur & ponitur ad pasturam.¹ Here it would be rash to infer that any eviction took place. The manor was in the Crown,² and the incloser may have been a yeoman, whether freeholder or tenant, enlarging his holding, the ruinous tenement having perhaps been surrendered by the outgoing tenant on the expiration of a lease. Of such cases we have indications at Ffienton in the East Riding.³ The return from Yorkshire varies. Sometimes evictions are mentioned, as in the case of an inclosure of 120 acres at South Cowton (N.R.), 'per quod quatuor messuagia & quatuor aratra prosternuntur & xxⁱⁱ persone ea de causa ab inhabitationibus suis recesserunt.'⁴ Sometimes, as in the case of the inclosure of 400 acres at East Tanfield, it is simply recorded, '& ea de causa octo messuagia prosternuntur.'⁵ There is no express mention of evictions in Staffordshire, Hants, Berks, or Cambridgeshire. But the number of houses decayed in those counties, with the general exception of the last, is faithfully entered. Sometimes the putting down of a plough is mentioned, 'per quod quatuor aratra deponuntur,'⁶ and from the Shropshire inquisition we know that a plough was associated with a messuagium and generally with a household of six persons.⁷ The evictions, too, are sometimes recorded as though from the description of a sympathetic eye-witness, as at Purselowe in Shropshire, where the lord of the manor, the Prior of Wenlock, converted thirty acres to pasture, 'per quod duo aratra deponuntur & xii^{clm} persone que ibidem occupari solebant ea occasione a tenuta & mansionibus suis lamentabiliter recesserunt.'⁸ Similarly, at Pedelleston in Herefordshire, 'inhabitantes . . .

¹ P. 10.² Blomef. vi. 419.

³ 'Ricardus harrisson apud Ffienton in dicto Estriding tenet ii husebound-holdings & ea de causa sunt iiii^{or} persone minores in eadem villa quam solebant esse,' p. 32. 'Ricardus ffient tenet in eadem villa vnum messuagium & vnam bouatam terre & ponit in dicto messuagio vnus [sic] pauper homo, & ea de causa sunt minores persone ibi inhabitantes quam solebant esse per tres,' p. 33.

⁴ P. 23, an inclosure by the lord of the manor.⁵ P. 25.⁶ Shyngey, Cambs., p. 59.⁷ Pp. 63-69.⁸ P. 61.

lacrimose recesserunt.'¹ It is not a very violent conjecture that had these evicted persons enjoyed even a right sanctioned by usage to their holdings, some of these sympathetic on-lookers, whose evidence, it must be remembered, was taken before a jury, would have expressed by a phrase a protest against the wrong done them. Professor Ashley, on an admittedly imperfect acquaintance with the MS., suggests that the witnesses were intimidated. We have no evidence of intimidation, except the doubtful use of the word 'quidam,' where the witness possibly failed to recollect the name.² On the contrary, we find the inquisition shrinking before no personage, however highly placed. This rigorous boldness was, no doubt, inspired by the clause of the Act of 1515 providing that half the value of the lands and houses neglected should be forfeited to the lord of the fee. The King's officers were already on the watch for the returns made of the lands of the King's immediate tenants.³ At Blickling, in Norfolk, the commission returned inclosures by Sir William Bolen, whose son, Sir Thomas, the father of Queen Anne, was already in high favour at Court.⁴ At Cheveyley, in Cambridgeshire, Sir R. Cotton, one of the commissioners, was returned as the incloser of twelve acres.⁵ At Childerley in the same county, Sir J. Cutte, under-treasurer of England and high sheriff of the county in the previous year, was returned as incloser of 250 acres.⁶ At Gamlyngay, in the same county, Sir R. Shiffeld, Speaker of the House of Commons in 1512, was returned as incloser of 400 acres.⁷ At Shuffenall, in Salop, George, Earl of Shrewsbury, then lord high steward, and a courtier of influ-

¹ P. 37.

² Haughboys Magna, Norfolk, p. 9. I believe Professor Ashley's hypothesis to be based on an erroneous reading of the MS. He reads: 'Stephanus Bolt habet vnum tenementum cum xl acris terræ—de quibus *quidam* xl acras inclusit, et posuit ad pasturam xij acras,' &c. But this is scarcely sense; the ordinary form would be, as appears from the MS., 'quas xl acras inclusit,' &c., or 'et predictas xl acras inclusit.' I read 'de quibus *quidem* xl acris inclusit & posuit ad pasturam xij acras.' The two following entries run 'quodquidem manerium.'

³ See the argument as to the proceedings to be taken by them in H. T. 9 H. 8. Keilway's *Report*, p. 197. ⁴ P. 10. ⁵ P. 58. ⁶ *Ibid.* ⁷ *Ibid.*

ence, is recorded to have inclosed thirty acres,¹ and at Belswardyn, in the same county, no less a person than Thomas, Duke of Norfolk, was returned as incloser of forty acres.² These instances, which are not exhaustive, show conclusively that three of the commissions, at any rate, were executed without respect of persons. Where the right to inclose was, in the opinion of the commissioners, *prima facie* open to question, they appear to have adopted the course of calling attention to its injurious consequences to the tenants.³ An inclosure by Giles, Lord Dawbeneye, at Bramsyll, in Hampshire, is accordingly returned as having been 'ad damnum tenentium Regis ibidem inhabitancium.'⁴ Still more emphatically, the inclosure of four or five acres of common pasture at Bradfordes Brugge in Herefordshire by Sir Edward Croste is denounced as 'ad magnum damnum & detrimentum inhabitancium ibidem.'⁵ The Cambridgeshire commission confines itself to the bare statement, 'in quo inhabitantes ville predictæ solebant habere communem pasturam.'⁶ 'Tres acras prati communis' is the simple record in Staffordshire.⁷

We are led, therefore, to the threefold conclusion: first, that returns were, in part at least, made by persons in sympathy with the policy of the Inquisition; secondly, that the commissioners themselves discharged their functions with courage and impartiality; and thirdly, that where an invasion of public rights had been committed, they did not scruple to call attention to it.

In the inquisition for Yorkshire, more detailed information is afforded us as to the legal interests in the properties cleared of their tenants. The acreage converted to pasture and the numbers evicted in consequence are set forth, together with the name of the lord. That of the 'tenens

¹ P. 65.

² P. 69.

³ By the statutes of Merton and Westminster freeholders were allowed to complain against an inclosing lord of a manor 'quod sufficientem pasturam non habeant,' 20 H. 3. c. 4; 13 E. 1. c. 46.

⁴ P. 41.

⁵ P. 38.

⁶ Est Hatley, p. 59. So *ibid.* 'vnde ducente acre terre vse fuerunt villagio.'

⁷ Patteshall, p. 45. Cp. 'xl acr. bosci communis' at Norbury, Salop, p. 62, and 'xl acr. terre communis' at Kynerton Marshe, in the same county. *Ibid.*

liberi tenementi' is then added. For example: 'Johannes Gower miles apud Styknam in dicto Northriding post predictum festum sancti Michaelis inclusit & conuertit octoginta acras terre tunc in cultura & xxiiii acras prati & pasture in pasturam & ea de causa duo messuagia tria cotagia & quatuor aratra prosternuntur. Et quod Edwardus Gower est modo tenens liberi tenementi inde.'¹ The preceding entry is similar, Sir William Fayrfax, late Chief Justice of the Common Bench, having been the incloser, and his son, William, being at the date of the return 'tenens liberi (et) tenementi inde.'² In these two cases the evicting tenants may be inferred to have held by a settlement for their lives, perhaps upon marriage. In the other cases they seem to have been for the most part simply lessees for lives, the essence of a frank tenement being that it was a tenure for lives. 'Tenir en fraunke tenaunt est a tenir a terme de sa vie demesne, ou a terme de autre vie.'³ Clearly, in these cases, the evicted were neither freeholders, lessees, nor copyholders. They must therefore have been either tenants from year to year⁴ or tenants-at-will at common law.

In the Lansdowne MS. direct mention of copyholders is rare. The intimation contained in the phrase, used of the lords of manors in the Berks Inquisition, 'conuerti permisit,' is that the conversions into pasture and the accompanying evictions were the work either of copyholders or of lessees for terms of lives at common law. Nor is it easy to infer with certainty the legal position of the inclosers. Those now generally known as 'tenants,'⁵ whether tenants from year to year or lessees, are frequently indicated by the phrases 'habet ad firmam,' as at Saxlyngham, Herpeley, and Loddon, in Norfolk (pp. 3, 11). In a case where we know from other

¹ P. 26.

² *Ibid.* at Southholme, N.R.

³ *Old Tenures*, ed. 1525, p. 4.

⁴ Tenancies from year to year were known in the thirteenth century. 'Item dimitti poterit terra pro voluntate dimissoris tenenda de termino in terminum & anno in annum,' &c. *Fleta*, III. xii. § 7. See *infra*, p. 186.

⁵ On the ancient use of the terms 'tenant,' 'tenement,' &c., see a note in the *Law Quarterly Review*, July 1889, pp. 326, 327.

sources that the incloser, E. Bedyngfeld, at Snethysham, was a lessee of the Crown, the phrase 'iam in manibus' is used. (See Blomefield's 'Norfolk,' x. 372.) 'Tenet' and its cognates are generally used to indicate a copyholder, as at Walford and Boseburye in Herefordshire (pp. 35-6), and Alington in Hampshire (p. 40). The simple recital of an incloser 'habet,' followed by the number of acres, apparently indicates a freeholder, and, as such a lord of the manor, as in the case of Robert Brampton, who was lord of the manor of North Walsham (p. 14, Blomefield, xi. 76). Of the 125 Norfolk inclosers, we know from other sources that five were probably copyholders.¹ Fourteen were tenants, whether by lease or otherwise.² Of the rest, some were lords of manors, others, no doubt, freeholders. Others, again, whose tenures we have no data to infer, may have been copyholders also. One thing is clear, that copyholders are not represented to have been among those evicted. The other counties afford similar testimony.³

There are instances of inclosures of demesne lands attached to manor houses effected by farming tenants; but these are apparently lessees, not copyholders, and for reasons already given, their inclosures were not always accompanied by evic-

¹ N. Elynham, p. 5; Tytelyshale, p. 6; Holkeham, p. 8; Blykelyng, p. 10; Aylesham, do., but quære.

² Bayfield, p. 2; Egefild, p. 2; Loddon, p. 3; Snethysham, p. 4; Gatelee, p. 6; Bylawe, p. 9; Arpyngham, p. 10; Fflytcham, p. 11; Herpeley, p. 11; Anmer, p. 12; Brabyngle, p. 12; Northwalsham, two cases, p. 14; Plompsted Magna, p. 19; Bastwyke, p. 20.

³ In the Gloucestershire Inquisition the interest's in land are shown as follows: The name of the incloser and the area inclosed are given. Then is added that the land is 'de hereditate' of so-and-so, e.g.: 'Thomas Rowys armiger anno xiiij^{mo} Regis henrici vij^{mi} apud Clopton in comitatu predicto cum sepibus & flossis inclusit centum & viginti acras terre arrabilis de hereditate Johannis leighton armigeri & eas in pasturam conuertit. Et quod valent per annum centum solidos.' We know from other sources that the manor of Clopton belonged to the Abbey of Evesham, of which Leighton was therefore a freeholder. Fosbrooke, ii. 321, Dugdale, ii. 47. In Norfolk we have at Bawsey and North Wotton express mention of the fact that the lands inclosed were 'diuersorum hominum.' But it is most significant that in neither case is the incloser the lord of the manor, so that the original tenants were not copyholders dispossessed by their lords.

tions.¹ We know, however, that in cases where the lords of a manor retained their demesne in their own hands, the uncertain services of the tenants of a manor were generally commuted for money or exchanged for the regular labour of cultivators resident upon the lands. It matters not here to inquire the precise terms on which these carried on their work. That they were there, upon the demesne lands, is evident from the examples distinctly mentioned in the inquisitions, and the conversion of those lands to pasture implied their eviction. The same is true where the demesne was let as a whole to a farming tenant.² For instance, at Dereham, in Norfolk (p. 18), the commission returns, 'Quod domina Anna Capell vidua infra spacium xx^{ti} annorum proxime elapsorum deuas-tavit & deposuit quoddam manerium in villa de Dereham vocatum le Olde Hall & xx^{ti} acras terre arabilis eidem pertinentes pro pastura vtuntur per quod vnum aratrum deletur.'³ The consequence of the Prior of Castellacre's inclosures at

¹ Such are Donmer (*i.e.* Anmer), Norfolk, p. 12. 'Mr. Thomas le Strange dimisit manerium suum in Donmer ad firmam Edwardo Harting cum omnibus terris in eadem villa et idem Edwardus posuit ad pasturam ouium c acras de terra manerii illius que fuerunt in cultura citra tempus commissionis & manerium predictum decedit.'

So at Thorp Parua: 'Quod Henricus Wyatt miles deposuit mansionem manerii de Thorp hall & xxx acras terre arabilis dicto manerio pertinentes inclusit & ad pasturam posuit ad decasum ecclesie ibidem,' p. 16. This suggests that the chaplain farmed the glebe, or the land granted by way of glebe, and that on its conversion to pasture the grant was resumed by the lord. The complaint of churches being allowed to go to ruin is repeated in the preambles of the statutes against inclosures. But this is the only distinct statement of such a case, though others may be inferred, in the Lansd. MS.

² 'Besides the lands of the manor held by freehold tenants, the lord retained in his own hands the domain—*terre dominicales*—portions of which were sometimes let to farmers, and portions cultivated by persons bound to render agricultural services for the benefit of the lord. The *Domesday of St. Paul's* leaves little doubt that there were frequently, especially upon ecclesiastical lands, farmers holding land under conventions or covenants, and rendering for it rent in kind or money.' Digby, *Hist. of Law of Real Property*, 3rd edit. p. 49. See Hale's Introduction to the *Domesday of St. Paul's*, p. lix.

³ At Grymston in Holderness, p. 30, the lady of the manor is represented as evicting eight persons from two messuages, nothing, however, being said about demesne lands. At Skarlagh Benyngholme, the Prioress of Swyne, being lady of the manor, evicted six persons and threw down the messuage, p. 32. There are many other instances of evictions by the lords of manors.

Wendlyng, in Norfolk, is that one plough is put down and that the 'messuagia pro iconomia manerii de heryngeshaugh sunt multum ruinosi' (p. 6). Evictions by farming tenants are also numerous. The Herefordshire commission returns, 'quod David Elm de ffalley firmarius domus llantoni iuxta Gloucestriam deposuit tria messuagia & tria Temeland sunt decasu ratione quod conuersit terras arrabiles in pasturam ac nulla familia ibidem manutenta fuit infra xvi^{clm} annos preteritos' (p. 35).¹ Such are two classes of evictors. The third are the copyholders. They are sometimes described in the MS. in appropriate legal phrases; more generally indicated as tenants of some person who is either stated by it to have been the lord or as to whom we have information from other sources. At Bedon, in Berkshire, 'Johana domina Baford fuit seisisita per copiam curie de vno messuagio et xl acris terre arrabilis in Bedon annui valoris x s. Et sic seisisita vi^{to} die Junii anno xx^{mo} Regis Henrici vii^{mi} messuagium predictum prosterni et terram in pasturam conuerti permisit' (p. 48). This, as in the analogous cases of inclosures by permission of lords of manors, may probably have been the work of the copyholder's farming tenant. At Bosebury, in Herefordshire, the return runs: 'Item quod Johannes ffalley de Boseburye inclusit vnum aratrum infra dominium de Boseburye & illud occupat in pastura & tenet illud de episcopo hereford secundum consuetudinem' (p. 36). At Alington, in Hampshire, 'Quod Johannes Warde tenet vnum cotagium & xviii acras terre in parochia de Alington infra hundredum predictum quod est in decasu & ruina & predictae xviii acre terre arrabilis in pasturam posite post dictum annum quartum predicti nuper Regis Henrici vii^{mi}. Et quod dicte terre

¹ At Bastwyke (Norfolk) the return runs: 'Item Johannes [blank in MS.] miles tenet ad firmam de magistro curson manerium suum in Bastwyke quod posuit ad pasturam ouium & quod fuit in cultura citra tempus commissionis predictae per quod vnum aratrum deletur' (p. 20). Similarly under Plompsted Magna (Norfolk) (p. 19) and elsewhere. At Hydecote Bertram in Gloucestershire (p. 54) an inclosure of 340 acres is returned, though no evictions are recorded. We know from other sources that this incloser was a lessee. Fosbrooke's *Gloucestershire*, ii. 320.

tenentur de domo sancti dionisii' (p. 40). Now we know that the Priory of St. Denys, near Southampton, held the lordship of this manor of Alington or Aldington.¹ The incloser was in all probability a copyhold tenant.

These being the inclosers and evictors, who were the evicted? For the answer to this question we have again to thank the absence of official uniformity. In the returns for Herefordshire are twenty-seven instances of inclosure and conversion to pasture. In this county the fact to which principal importance is assigned is the decay of the messuage, which no doubt in order of time preceded the actual conversion to pasture. In thirteen cases the language used to describe this process is such as to disclose the legal position of the tenants. For example: 'Item quod est messuagium decasum in Orleton & inhabitantes messuagii predicti pro defectu reparacionis eiusdem abinde recesserunt,' &c. It is clear from this that repairs were effected by the landlords in the cases of the persons so evicted. Had these tenants held for lives, they would have been compelled by the statute of Gloucester² to themselves undertake repairs. So too, if they held by a lease for a term of years,³ unless the landlord had himself consented to repair. In that case they would have had a legal remedy; and it is impossible not to believe that, with the favour of a strong government, that remedy would have been made effective. Had they been copyholders on some other tenure, they would have incurred forfeiture for waste, which is not suggested.⁴ Their

¹ Dugdale, vi. 214.

² 6 Ed. I. c. 5. In the Manor of Castle Combe the evidence of the surrenders and renewals or admissions in the rolls shows the copyhold tenures to have been for one or more lives, usually that of the tenant himself and his children. (*History of the Manor of Castle Combe*, by G. Poulett Scrope, 1852, p. 151, n.) This was the case elsewhere. See Elton on *Custom and Tenant Right*, pp. 30-31.

³ Coke upon Littleton, i. 8, § 71, n. (ed. C. Butler, 1823). In the Dean and Chapter of Worcester's case *Co. Rep.* pt. vi. 37 b, it was laid down *per Curiam* that 'the statute of Gloucester, cap. 5, gives an action of waste against him who holds in any manner for term of life or years.'

⁴ According to Coke upon Littleton, i. 10, § 83: 'If there be no custome to the contrary, wast either permissive or voluntary of a copiholder is forfeiture of his

interest, then, was of some other kind. It could only have been a tenancy from year to year or a tenancy at will. Of these tenancies both were known, understanding 'tenancy at will' in the modern sense,¹ long before the fifteenth century.² The leaning of the judicial bench in favour of tenants in the following century was shown by the decision, a few years after this inquisition, that the incident of half a year's notice to quit, proper to a yearly tenancy, should be necessary to a tenancy at will.³ It is probable that after this decision yearly tenancies were formally granted where tenancies at will had been up to that time usual.⁴ By this the landlord lost no rights,⁵ while the tenant gained the satisfaction of a precise definition of the minimum length of his tenancy. In such tenancies the burden of repairs fell upon the landlord by the common law, which, in the case of tenancies at will was not altered by the statute of Gloucester (1278).⁶

copihold.' For an example see Scrope's *History of the Manor of Castle Combe*, p. 164 n.

¹ 'Et divers diversites y sont perenter tenaunt a volonte, qui est eins per lees son lessour par le cours del comen ley, et tenaunt solonques le custome del manor en la fourme avaundit.' Littleton's *Tenures*, ed. Tomlins, 1841, § 82. See *supra*, p. 181 n. and *infra*, p. 220.

² A case of tenancy from year to year is recorded in 1202. *Placita Civilia*, Seld. Soc., iii. 232.

³ *Right v. Darby*, 1 *T. Rep.*, 160, 163 (1786), and Y. B. 13 H. 8. 15 b. (1521). Cp. M. T. 3 H. 8. Keilwey's *Reports*, pp. 163-4.

⁴ Tenancies at will were the usual alternatives to tenancies for lives or for terms of years. Neither Coke upon Littleton nor Coke's reports concern themselves with tenancies from year to year. Tenancy from year to year was, no doubt, tenancy at will with its customary incidents definitely set forth. The decision of the judges as to the necessity of six months' notice to quit probably did no more than give a legal sanction to usage. How the two kinds of tenancy were in practice related may be seen in the Y. B. 21 H. 7, p. 38: 'Un Abbe lesse certains terres a un auter a tener a volonte par un an, & sic de anno in annum.' It will be observed that in Dugdale's *Monasticon* the tenentes ad voluntatem are given after the copyholders. So the statute of Gloucester, 6 Ed. I. c. 5, gives a writ of waste against tenants for life or for terms of years, but says nothing about tenants from year to year.

⁵ Joshua Williams lays it down that a lease from year to year 'is much more advantageous to both landlord and tenant than a lease at will.'—*Law of Real Property*, 16th ed. 1887.

⁶ 'Item si un mese soit lesse a tener a volonte, le lessé nest pas tenu a susteiner ou repaireller ses maisons, sicome tenaunt a terme dez ans est tenu.'—Littleton, § 71; cp. § 83.

According to the legal maxim, 'Expressio unius est exclusio alterius.' The mention of the eviction of copyholders in certain of the recorded cases affords a strong inference that copyholders were not elsewhere to be found among the persons expropriated. Now the only suggestions in the MS. of the eviction of copyholders occur in the case of Gloucestershire, and these instances on examination will be found to confirm the conclusion already reached, that, speaking generally, copyholders were not evicted from copyhold or customary land.¹ They are as follows:—

1. 'Robertus poyntz miles anno septimo Regis henrici viii^{mi} augmentavit & elargavit parcum suum de hyll apud hyll in comitatu predicto & ad eundem pertinentes cum flossis & palis inclusit & imparcavit septem acras terre de separalibus dominicis terris suis propriis ibidem et quattuor acras separalis pasture quas tenentes dicti Roberti per copias curie occupauerunt ad voluntatem dicti Roberti. Et valent per annum quinque solidos.'

With regard to the seven acres nothing needs be said. They are expressly recited as being of the lord's own separate demesne lands, nor is it clear that they were occupied by tenants at all. The case of the four acres of pasture is different. Claims founded upon prescription of common or several pasture within the lord's waste were frequent enough to attract the notice of the authors of the text-books. The prescription alleged may have been founded originally upon encroachment. That this was the contention of the evictor, and perhaps their own opinion, may be inferred from the language of the commissioners. The tenants, it is to be observed, are not called 'Tenentes ad voluntatem.' They are expressly stated to be 'tenentes per copias curie.' It is only said that they were in occupation of this several pasture 'ad voluntatem.' This last expression may, of course, indicate that their occupation originated in a grant, but it more probably expresses the

¹ See note B to Foiston v. Crachroode, Mich. 29 and 30 Eliz. (1587). Coke's *Rep.*, pt. iv. 31 b. pl. 25.

legal inference as to tenants who could prove neither grant nor prescription. The eviction was grounded upon a disputed title, if indeed, as the recurrence of the word 'separalis' suggests, they were not confessedly tenants at will at common law of four acres of the demesne pasture.

2. 'Edwardus dux Buckingham xxiiij^{to} die Nouembris anno xxiiij^{to} Regis henrici vii^{mi} apud Thornebury in comitatu predicto de nouo imparcauit in parcum suum ibidem vocatum le newe parke centum septuaginta & duas acras terre de dominicis terris suis propriis & nonaginta & sex acras terre & triginta & duas acras pasture quas tenentes dicti ducis per copias curie ad voluntatem dicti domini ducis occupauerunt de hereditate dicti ducis.'

3. 'Et idem dux decimo die Januarii anno sexto Regis henrici viij^{mi} elargauit parcum suum predictum vocatum newparke et ad eundem apposuit & cum flossis & palis inclusit centum & sexdecim acras terre de dominicis suis terris ibidem et quadraginta & septem acras pasture quas tenentes dicti ducis per copias curie ad voluntatem dicti ducis occupauerunt de hereditate dicti ducis.'

4. 'Et idem dux decimo die Januarii anno sexto Regis henrici viij^{mi} elargauit parcum suum de Morlewood apud Thornebury predictum & ad eundem apposuit & cum palis includi fecit centum sexaginta & quatuor acras terre ibidem de dominicis terris suis propriis & sexdecim acras pasture & dimidium quas tenentes dicti ducis per copias curie ad voluntatem dicti ducis præantea occupauerunt de hereditate dicti ducis.'

These cases, all consideration of the demesne lands being excluded, are carefully recorded in precise legal language. They do not convey the same impression as the first, the word 'occupauerunt' being detached from the recital 'ad voluntatem.' In the last entry the word 'præantea' shows that the claim to pasture was founded upon prescription, and the entire entry indicates that the prescription alleged was, in the opinion of the commissioners, good.¹ Of more importance

¹ Cp. *infra*, p. 246.

than the evictions from pasture land, where rights were naturally more difficult to ascertain, is the eviction from arable, viz. from 96 acres in case 2. It is difficult to resist the conclusion that in this case we have the eviction of a copyholder from customary land.

Edward Stafford, Duke of Buckingham, was at this time a peer of the highest influence.¹ It is intelligible that evicted tenants would be slow to challenge his proprietary rights. This being so, it is remarkable, if copyholders could be evicted at will, that in inclosures by the duke so extensive as those recorded here and elsewhere² there is only one clear case of eviction from a copyhold tenancy.³ That other evictions of tenants at will at common law took place upon the demesne lands there can be little doubt, though, owing to the form of the Gloucestershire return, they are not expressly mentioned.⁴ But the language of the commission hints that Buckingham's proceedings were regarded as highhanded, if not actually illegal. We know, as a fact, that they involved him in great local unpopularity, and this may have disposed Henry, whose principle of government was to sacrifice the unpopular to public resentment, to determine his destruction. In 1521, after the execution of the duke, a survey of his lands took place. The surveyors reported that he had 'enclosed into the park (of Thornebury) divers men's lands, as well of freehold as of copyhold, and no recompense as yet is made for the same; and lately he hath also enclosed into the same park two fair tenements, with barns and other houses well builded with stone and slate, with 500 acres of land, and as yet the tenants continue in the same, wherein of necessity some redress must be, either in

¹ *Br. Cal.* II. i. 1959. Th. Alen to the Earl of Shrewsbury. 'Buckingham went home yesterday; hath all his desires, with great thanks from the king.' (May 31, 1516.)

² *Ibid.* I. 1157, II. 3022.

³ At a later date, as will presently be seen, he ventured upon further and incontestably illegal expropriations.

⁴ Not a single case of the eviction of a person, or even of a house decayed, is given in this return.

amoving the said tenants from out of the park with convenient recompense, or else in taking in the pale as it stood afore,' &c. The survey proceeds to mention a conyngry¹ called Milborowe Heth, granted by the king to John Hauteley, 'whereof there is great exclamation for closing in of freeholds and copyholds now being set by the said John for 4*l.*, and by the old precedents was but at 3*s.* 4*d.*' The rents and farms decayed from inclosures are given in terms of money at 48*l.* 19*s.* 3½*d.*; the number of the manorhood, *i.e.* the freeholders and copyholders of the manor, at 175. Of bondmen, it is added, there is a good number, as appears by the court rolls. These were the tenants at will, distinguished, as in the Monastic Returns,² from the 'manorhood.'³ It is evident that neither the report of the commission nor the Acts of 1515⁴ had exercised a restraining effect upon the duke. Indeed, his illegal proceedings, by his trespass upon the rights of freeholders, had been carried a degree further.

Contemporary historians dwell upon the circumstance that the duke's arbitrary oppression of his tenants was a principal cause of his ruin. His instrument had been a certain distant kinsman, one Charles Knyvett, whom he had made steward of his estates. In Kent,⁵ as in Gloucestershire, complaints were universal, and it may be inferred from Polydore Vergil that they reached the ears of the king. At any rate, it was while accompanying Henry on a progress in Kent that Buckingham felt it necessary to discharge Knyvett from his service, ostensibly on the ground of this misconduct.⁶

¹ *I.e.* rabbit warren, from 'conynge,' a rabbit. See Halliwell, s.v. *conig*; also *Promptorium Parvulorum*, s.v. *connyngere*.

² Dugdale's *Monasticon*, passim.

³ *Br. Cal.* III. i. 1286. Cp. *infra*, p. 232.

⁴ 6 H. 8, c. 5, and 7 H. 8, c. 1, against 'pulling downe of Townes.' *Supra*, pp. 173, 174.

⁵ The duke was lord of the manors of Tunbridge and of Redcleeff, Penshurst, Kent. *Br. Cal.* III. i. 1286, pp. 507, 509.

⁶ Polydore Vergil's words are: 'Is [the Duke] praecedat Henricum, & ad predia quae in Cantio habebat profectus aliquot dies ibidem moratus, vbi non fuit quisquam omnium fructuariorum qui non sit questus de Caroli Cheneueti eius procuratoris rapinis ac iniuriis. Quibus rebus dux commotus, de damnis suorum colonorum cognoscit, & cum eos iure conqueri comperisset, Carolum ea

It was upon Knyvett's accusation, instigated by Wolsey,¹ long an enemy to the duke,² that Buckingham was condemned.

Such is the internal evidence of the MS. when read in the light of contemporary law and history, and the view here taken, that, save in exceedingly rare cases, the persons evicted were not copyholders, is confirmed by the express language of the statutes. The first Act for the restraint of inclosures, the 'Act concerninge the Isle of Wight' (1488),³ sought to check the consolidation of farms. Its language shows that the persons who in this way increased their holdings were farmers.⁴ Nothing is said of evictions or of any misconduct on the part of lords of manors. In the general Act of the same session 'agaynst pullyng down of Townes,' or, as it is intituled in the Exchequer copy, 'for keypyng up of houses for husbandrye,'⁵ the Act, though its language is wanting in clearness, enjoins that where owners let farms lying in tillage, they shall themselves be responsible for the maintenance of the buildings. But its language—'any house . . . that . . . shalbe leten to farm'—imposes

curatione illico priuat, nesciens id sui confodiendi telum futurum esse, vti appositè alibi demonstrabitur,' p. 660, ed. Basileæ, 1570. Polydore Vergil writes rather with hostility to Wolsey than with friendliness to Buckingham. It is abundantly clear, from his inclosures at Thornebury, that the duke was unscrupulous in his proceedings. Cp. Shakespeare, *Henry VIII.* act i. sc. 2 :

'You were the duke's surveyor, and lost your office

On the complaint o' the tenants.'

¹ 'Hinc Volsaeus materiem perpendi ducis aucupatus Carolum tam verbis quam promissis concitat, stimulat, inflammat,' &c. (Pol. Verg. p. 665.) Cp. Shakespeare, *Henry VIII.* act i. sc. 1 :

'My surveyor is false ; the o'er-great cardinal
Hath show'd him gold.'

² The Cardinal, according to Herbert, 'disaffected him for some speeches he had cast forth.' (*Life and Reign of Henry VIII.*)

³ 4 H. 7, c. 16.

⁴ 'And if eny persone do hereafter to the contrarie of this Act, that then the lessee in that behalf forfeite to the kyng for every suche taking x li. Provided alweyes that they whiche have paid any fynes, or made bildinges or done grete reparacion upon any suche fermes, and be putte fro the same ferme by reason of this Acte, shalbe recompenced for suche bilding or reparacion as right and gode conscience requiren.' After this statutory declaration of a farmer's right to compensation for improvements 'right and good conscience' slept for four hundred years.

⁵ 4 H. 7, c. 19.

no obligation on the lords of manors towards their customary tenants. Indeed, it is doubtful whether it affects them in relation to their tenants-at-will.¹ So far as copyholders are concerned, the Act of 1562 'for the mayntenaunce & encrease of tyllage,'² which confirms the statute of 1488, expressly specifies copyholders as among the 'owners' within that statute. In the spring session of 1515 was passed the temporary 'Acte concernyng pulling downe of townes,'³ made perpetual by an Act in the winter of the same year.⁴ In these Acts the rebuilding and maintenance of those houses are enjoined, the decay of which had been 'suffred or caused' 'by the owner or owners thereof for their synguler profit, availle, and lucre.' These were the Acts in force at the time of the inquisition. They concur with the inquisition in pointing conclusively to a class of tenants other than copyholders, since copyholders did not look for repairs to the lords of the manors, as did the persons who were the victims of the agricultural revolution in progress.

In an often quoted passage of his 'Complete Copyholder,' Coke dwells upon the security of tenure attained by copyholders at his day, contrasting it with their precarious position in Saxon and early Norman times.⁵ In the contention of Professor Ashley, to which reference has already been made,⁶ this security was, in the time of Coke, of very recent growth, absolutely non-existent for the mass of copyholders during all but the concluding years of the agricultural revolution, which extended from 1450 to 1550.⁷

¹ I can find no reference to the Act in Coke's *Reports*, or in his treatise on Littleton. ² 5 El. c. 2. ³ 6 H. 8, c. 5. ⁴ 7 H. 8, c. 1.

⁵ 'But now copy-holders stand upon a sure ground, now they weigh not their lords displeasure, they shake not at every sudden blast of wind, they eat drink and sleep securely; onely having a special care of the main chance, viz. to perform carefully what duties and services soever their tenure doth exact, and custom doth require; then let lord frown, the copy-holder cares not, knowing himself safe, and not within any danger.' (Ed. 1673, § ix.)

⁶ *Supra*, p. 170 foll.

⁷ *The Character of Villein Tenure*, pp. 4, 5, 13. From the reference on p. 5 to the Midland and Southern counties, I infer 'the mass of copyholders' to exclude the customary tenants of the border.

The language of modern writers on the connexion between villenage and copyhold is in the highest degree loose and unsatisfactory. On the one hand, they insist, in accordance with the expressions of the authors of mediæval text books, upon the helplessness of the villein as against his lord. On the other, they content themselves with the naked statement that the security of the copyholders grew up out of the unprotected condition of the holder in villenage, with no more defined assurance than the 'forbearance'¹ of the lord to take advantage of his legal rights. These contradictory and unconvincing assertions have their source in ignorance of the distinctions between villenage in blood and tenure and their consequences. I propose to show that these distinctions implied gradations of legal right; to trace the steps by which those rights became enlarged; and to prove that, while 'pure villeins' remained 'pure villeins' or 'bondmen,' the security of copyholders or tenants in villenage was as completely established in theory as we have seen it to be in practice throughout the whole period during which the agricultural changes were in progress.

The law-writers of the fifteenth century distinguished villeins as 'villeins regardant' and 'villeins in gross.'² The latter were described as mere slaves or serfs, chattels who could be sold or transferred from one lord to another. According to Fitzherbert³ 'bondmen' existed in his day, early in the sixteenth century, and in 1521 there were 'a good number,' as has just been seen, on the Duke of Buckingham's lands.

¹ Reeves' *Hist. Eng. Law*, I. 69, ed. Finlason, London, 1869.

² Littleton (§ 181) says: 'Et villein en gros est lou vn home seisie dun manoir a que vn villein est regardant, & il graunta mesme le villein par son fait a vn auter, donque il est villeine en gros & nemy regardant.' But if this were true the villeins regardant could not be said to be *ascriptitii*, as was laid down of the villani, for they might have all been reduced to serfdom. Cp. *infra*, p. 199, n. 3. *Qu.* Does Littleton hint at the illegal practices said by Fitzherbert to have been sometimes pursued? See *Surueynge*, ch. 13, p. 31, ed. 1539, and see *infra*, p. 210, n. 5.

³ *Ibid.* 'Howe be it in some places the bondemen contynue as yet, the whiche me semeth is the greatest inconuenience that now is suffred by the lawe. That is, to haue any christen man bounden to an other, and to have the rule of his body, landes and goodes, that his wyfe, chyl dren, and seruantes have laboured

But Sir Thomas Smith, writing about a century later, says, 'I never knew any in the Realme in my time.'¹ That slaves of this sort existed in the Saxon period under the name of 'theows,' we know.² In the Domesday Survey they are described as 'servi.'³ Neither Britton nor most other early jurists make any mention of villeins in gross,⁴ but it is certain that the 'servi' continued to exist under the name of 'nativi' or 'nayfs,'⁵ and it is clearly in the nature of things that so valuable a property would not be surrendered without a struggle. Indeed, the juristic identification of them, under the influence of the Roman law, with the villeins, led rather to a retrenchment of the privileges enjoyed by these under the Saxon name of 'ceorl,' than to an advance of the nayfs to the privileges of villenage.⁶ The effect of the Norman Conquest, to use a modern phrase, was at first rather towards a 'levelling down' than a 'levelling up.' But while jurists, saturated with Roman law, were careless of recording

for, all their life tyme, to be so taken, lyke as and it were extortion or bribery.' Cp. *supra*, p. 190.

¹ *The Commonwealth of England*, London, 1609, p. 123.

² 'The ceorl is "the villain regardant of the lawyers"; the theow is the "villain in gross."' Freeman, *Norm. Cong.* v. 477. This dictum is in harmony with the popular view as to the meaning of this legal distinction, a view which the researches of Dr. Vinogradoff (*Villainage in England*, pp. 48-58) have at least proved to be unfounded.

³ There were no more than 25,000 of them, as compared with 110,000 villani. Stubbs, *Const. Hist. Engl.* I. xi. About 9 per cent. of the total population, reckons Mr. Seebohm, *Eng. Vill. Comm.* p. 86, map.

⁴ Britton, ed. F. N. Nichols, I. p. 197 n. x. I am disposed to believe that the term came into use to distinguish those serfs who were allowed to reside outside the limits of a manor on payment of chevagium, or head-money, and whose manorial designation, so to speak, was 'capitagii.' I do not understand this to be the view of Dr. Vinogradoff, who appears to regard the distinction as a mere form of pleading, without any bearing upon fact. But forms of pleading are adapted to facts, and the case given by him in his Appendix II. points to this as the difference. See Littleton, § 181, and Bracton, f. 6 b.

⁵ Britton confounds these with villeins. An annotator, apparently of early date, takes note of Britton's confusion, and endeavours to remedy it by distinguishing between nayfs, villeins, and serfs, from the point of view, not of their rights, but of their origin. Nichols, I. p. 195, n. q. Littleton, § 186, mentions 'nyefe' as the feminine of villen.

⁶ Stubbs, *Const. Hist.* I. xi.

facts, a less adventurous compiler of the time of Edward I., satisfied with a statement of the customary distinctions of society as he actually found them to be, precisely distinguishes between the two classes.¹ Villeins, he bids his reader note, are not serfs, by whom he intends 'nativi' or 'nayfs.'² Serfs can acquire nothing but for the use of the lord. They do not know in the evening what service they shall do in the morning. Their lords may put them in irons, in the stocks, may imprison and chastise them at will, saving life and limb. They may not fly from, nor forsake their service, so long as they find wherewithal to sustain life, nor is it lawful for any to receive them without their lord's will.³ But the essential mark of what was called in the fourteenth century 'pure' villenage, that is the villenage of the nativi, as distinguished from that of the villani, was

¹ Generally said to be Andrew Horne, whose book, *Le Myrroure des Justices*, was pronounced by Coke to have been written in the reign of Edward I., or at least not later than 17 Edward II. See preface to the edition of 1642. The same conflict between actual use and legal theory is to be seen in the use of the word 'villanus' in the Hundred Rolls and in the decisions of the Curia Regis. In the Rolls the words 'nativi' or 'servi' are added to distinguish the kind of vil'ain. In the Courts 'villanus' was used by itself, generally with the connotation of serfdom. Nasse, p. 38, n. 2. *Infra*, p. 212, n. 3.

² Horne's commentaries on serfage are in a chapter headed 'De Naifter.' So the *Leges Henrici Primi*, c. lxx., speak of 'nativitate servi.' Bracton, I. vi. 4, says, 'Servi . . . nascuntur . . . ex nativo et nativa.'

³ 'Nota que villeins ne sont my serfs. . . . Ceux ne poient rien purchaser; forsque al oeps leur seigneur. Ceux ne scauent le vespre de quoy ils servient al matin, ne nul certainty des services. Ceux poient les Seigneurs firger, cipper, enprisoner, lattare & chastiser avolunt, salve a eux les vies, ou les membres entires. Ceux ne devont fuer ne adire de leur sars, tant come ils trovent doient vivre ne nul ne list ee les recevoir sans le gre leur Seigneurs.'—*Le Myrroure*, p. 169. Cp. the laws of William the Conqueror, § xxx., De nativis. Britton, ed. Nichols, I. 197. *Old Tenures*, p. 7. Horne does not mention that they could be sold. An example of a deed of sale is given in Du Cange (ed. Favre) s.v. from Blount, as late as 13 Edward III. See also *Placit. Abbrev.*, 9 John p. 57. 'Willelmus vendidit quandam . . . pro iiii solidis.' There are six examples of sales subsequent to the Conquest in Madox, *Formulare Anglicanum*, pp. 417-419. An inspection of these instances verifies the statements of Horne as to the practice of English law, the Romanising theories of Bracton and his school notwithstanding. Of these six cases two expressly state that the person sold was a 'nativus'; two convey the same inference by releasing them from 'servitus' (quietos ab omni servitute)—'cum toto claimo servitutis et villenacionis;') two use the less definite expression 'hominem meum.'

liability to uncertain services.¹ And the fact of the uncertainty of the services imported that no default need be alleged, and no performance could be pleaded to justify or to stay an eviction.²

A manor was divided into three parts: the land in demesne; the land in villenage, or customary land; and the wastes or uncultivated land.³ The last, originally regarded as no man's land, had in time become 'terra regis,'⁴ and, as holden of the king, the property of the lord, subject to the prescriptive rights of pasture enjoyed by the tenants of the manor. This doctrine as to waste is of much importance in the history of inclosures.

That portion of the manorial lands called the demesne

¹ 'Tenir en pure villenage est a faire tout ceo qe le seignour luy voet commander.' *Old Tenures* (temp. Edward III.), ed. 1525, p. 6. So Bracton, IV. xxviii. f. 208, b: 'Si autem villanus fuerit, omnia faciat & incerta tam ratione villenagii quam personae. . . . Est etiam villenagium non ita purum, sive concedatur libero homini vel villano ex conventionione tenendum pro certis servitiis & consuetudinibus nominatis & expressis, quamvis servicia & consuetudines sunt villanae.'

² In *Placita Civilia*, Selden Soc. III. 235, in a case heard in 1202, the plaintiff in an assize of mort d'ancestor came and admitted 'quod ipse tenet terram illam in villenagio de Osberto filio Nigelli ita quod ipse Osbertus potest amovere eum quum voluerit.' The addition of the condition 'on the terms that' would not have been necessary, especially in a brief legal entry, had tenure 'in villenagio' legally implied it.

³ In the *Extents of Manors in Caernarvon and Anglesey*, taken 26 Edward III., only two classes of men and lands are recognised, the freeholders (*liberi homines*) and villeins, who held by the strictest villenage under their lords, i.e. *nativi*. Consequently, 'the two great distinctions of land are *terra dominica* and *terra nativa*.' These two divisions were demesne let on lease and demesne kept in hand by the lord, i.e. bordland. The reason of the absence of the intermediate class of villeins is that 'terra Walliae est terra conquestus. . . ita quod nullus tunc aliquas libertates absque speciali pacto ipsius domini Regis seu heredum suorum clamare potest, set omnes libertates si que antea fuerunt, per conquestum illum adnullate fuerunt.'—*Record of Caernarvon*, London, 1838, pp. vii and 204.

⁴ To support this theory a piece of lawyer's history was invented that 'the first kings of this realme had all the lands of England in demeane.' *Coke upon Littleton*, § 73, cp. *ibid.* § 1. This is improved upon by Bacon in his 'Use of the Law,' *Works*, VII. 481 (Ellis & Spedding's ed.) 'The Conqueror got, by right of conquest, all the land of the realm into his own hands, in demesne. . . except religious and church lands, and the lands of Kent.' Hence the doctrine 'all lands within this realm are held either mediately or immediately of the king.' *Per Curiam in Grendon v. Bishop of Lincoln*, 18 & 19 Eliz. C. B. Plowd. ed. 1816, p. 498 a.

was divided, both in practice and in theory, into 'Bordland' and 'terra nativa.' The first, as its name indicates, is equivalent to what would at the present day be called the home-farm, and was, in fact, distinguished from the rest of the demesne by its surrounding the manor house.¹ The second was cultivated by the lord's villeins, or, more properly, 'natives'; also for the lord's profit,² but less immediately under supervision, and, therefore, in practice, as time advanced, for terms of some duration. But, undoubtedly, both portions of the demesne, as being worked for the benefit of the lord, were originally held strictly at will. Writers who have insisted upon the insecurity of tenure in villenage, and applied the statements of mediæval jurists to the case of those known later as copyholders, have overlooked the fact that two conditions were necessary to make the phrase 'ad voluntatem domini' a reality in the modern sense of the words. The first was that the land should be demesne, the second that it should be in the occupation of nativi, or villeins by blood. The case of customary land in the occupation of villeins by blood will be considered presently. On the other hand, before compositions in money had taken the place of services, 'liberi tenentes,'³ as

¹ Called 'inland' in Domesday, as opposed to land 'in servitio,' i.e. held by services. See *Coke upon Littleton*, § 10. Also as opposed to 'upland,' *infra*, p. 200, n. 6.

² 'Dominicum dicitur quod quis habet ad mensam suam & idcirco Anglice vocatur Bordland: dicitur etiam Dominicum Villenagium quod traditur villanis, quod quis tempestive et intempestive resumere possit pro voluntate sua et revocare.' Bract. lib. iv. tract. 3, cap. 9, num. 5, quoted by Coke, *Compl. Copyh.*, § 12. Professor Ashley dismisses Bracton's evidence with the remark that 'so long as we are without a critical edition, and unable to distinguish Bracton's text from later accretions, it is possible to support by his authority almost any opinion as to villein-tenure.' But I would observe that the question with which Professor Ashley, like myself, is concerned, touches the rights of copyholders as they were in the reign of Henry VII., and more particularly in that of Henry VIII. By that date the text of Bracton may be supposed to have been settled, and questions as to its original purity are of small concern to us. On 'Bordland' in Welsh manors see *A History of Ancient Tenures of Land in the Marches of North Wales*, by A. N. Palmer, pp. 61, 62, 66.

³ 'Liberi tenentes' or 'Libere tenentes' included tenants holding by military service and rent-paying freeholders, tenants of moors and wastes or of demesne proper. See Mr. Elton in Appendix to *Rentalia et Custumalia of Glastonbury*

well as customary tenants, were under obligation to assist in cultivation.¹ Sometimes the demesne was, in whole or in part, let out to such tenants,² who then acquired proprietorial rights over the villeins (*i.e.* *nativi*) engaged upon it.³ But, in the normal order of things, it was occupied and cultivated by the *nativi*, serfs or bondmen, of whom some, as will be seen, passed into the class which Coke, applying the language of his own day, calls 'inferiour copyholders.'⁴ Britton, under the name of villenage, sums up the incidents of this tenure as being 'a holding of demesne of any lord delivered to hold at his will by villein services to improve to the use of the lord.'⁵ The definition implies that the lord may evict as his interest demands. Britton has in his mind, though he omits to mention, the additional incident of 'native blood' in the tenant as completing the characteristics of 'pure villenage.' This appears from the context: 'In the same manors of our ancient demesnes there are also pure villeins, both by blood

p. 240. There is no occasion for me in this connexion to enter into the question whether they were created subsequently to the Domesday Survey or not. On this see Dr. Vinogradoff, *Villainage in England*, pp. 313-353.

¹ It must be borne in mind that a freehold tenure was not the less one 'though the soile be charged with free services or others.' Cowel, s.v. *Hist. of the Manor of Castle Combe*, p. 147.

² *Ibid.* The *Domesday of St. Paul's*, xxvi, xxvii. *Fleta* v. 5. In Wales, as late as 1353, when service had been largely commuted for money payments, the townships were divided into three parts: (1) 'Gwyr Male,' or men who rendered money; (2) 'Gwyr Gweith,' or men who gave work; (3) 'Gwir Tir borth,' or men who rendered provision.—Palmer, p. 66.

³ *Year Book* 21 Hen. VI. p. 37.

⁴ *Compl. Copyh.* § 12. *Hist. of Castle Combe*, p. 160, *sub anno* 1354: 'Homagium presentat quod Johannes Spondel est natus domini. Ideo preceptum est Adæ Spondel fratri suo quod ipsum habeat ad proximam, sub pena qua incumbit, ad recipiendum terram nativam de domino,' etc.

⁵ Britton, III. ii. 12. 'Villenage est tenement de demeynes de chescun seignur, baillé a tenir a sa volonté par vileins services de enprouwer al oes le seignur. . . . Et en mesmes les maners de nos auncienes demeynes sount pur vileyns de saunc et de tenementz, les queus porount estre oustez de leur tenementz et de leurs chateaus a la volonté de leur seignurs.' So in the case of the 'gebur' before the Conquest, who, as liable to certain services, was in the position of a villein in blood, holding customary land, the law was:—'Si mortem obeat, rehatbeat dominus suus omnia.' 'Rectitudines singularum personarum,' Thorpe, p. 186.

and tenure, who may be ousted from their tenements and deprived of their chattels at the will of their lords.¹

The mention of this class of tenants in ancient demesne has a special significance in this connexion. Ancient demesne consisted of all the land described as 'terra regis' in Domesday.² While the villeins in blood could be evicted at pleasure, the tenants in ancient demesne enjoyed a secure title into whose hands soever the land passed. The peculiarity of the privilege lay in this, that it was not customary land proper, but theoretically demesne land³ to which, as will be seen, the incidents of customary land attached. That it might be clearly marked off from ordinary demesne land, the phrase 'ad

¹ So Fleta, I. 8, 5. 'Item in eisdem maneriis sunt liberi tenentes et . . . puri nativi, sicut alibi in regno.' If Britton's statement be correct, then either 'pure villeins' in Ancient Demesne were less protected by law than 'servi' outside it, which is contrary to all probabilities derived from what we know of ancient demesne, or else we must question the statement of Bracton (f. 6) that 'servi' have a right to 'salvum waynagium.' I incline to the latter alternative. In an article in the *Law Quart. Rev.* i. 197, Dr. Vinogradoff points out that Bracton copies the greater part of the passage to which his statement as to waynage is appended from Azo, *Inst.* I. p. 1077, which is a discourse on slavery. Bracton in his zeal for Roman doctrine, and in order to adhere as closely as possible to the language of his master, 'nicknames,' as Dr. Vinogradoff aptly puts it, villeins 'servi.' As Dr. Vinogradoff shows, the clause which follows, stating that 'servi' in ancient demesne enjoyed the right of waynage, is a gloss. The provision (20) of the Great Charter, 'Villanus amercietur salvo waynagio suo,' confirms this view. The power of lords, then, over 'pure villeins' upon demesne was unlimited, 'saving life and limb,' as Fitzherbert represents, and as, indeed, is implied in the right to sell them. *Supra*, p. 195, n. 3.

² *Y. B.*, M. T. 13 Ed. III. (54). Fitzherbert, *Natura Brevium*, sub 'Monstrauerunt,' f. 16 b.

³ Bracton's language is significant. He says of them (IV. xxviii. f. 209): 'Proprie dicuntur glebae ascriptitii,' which suggests, as is the case, that the word was applied to villein tenure of customary lands improperly; for 'les Ascriptices, c'est assaveir ceux qui sont tenus labourer les terres de leurs signors' (*Statuta Car. I. Reg. Sicil.* c. 149, in Du Cange, s.v.). I suspect that the payment of merchet, which Dr. Vinogradoff (p. 91) frequently finds made by villein sokemen of ancient demesne, is traceable to the same origin, the fact that the land continued to be conceived of as demesne. Cp. Coke, *Compl. Copyh.* ed. 1673, § xii. The king in theory never permanently alienated it, but continued to exercise certain rights over it and even regarded alienations by the feudal owners as encroachments upon his property. See *ibid.* pp. 106-108, and notes. With the maintenance of the idea of contingent revocation may be compared the inquiries made as to the

voluntatem' was, as in some manors,¹ omitted upon the admission of tenants, and the phrase appropriate to customary land introduced, 'secundum consuetudinem manerii.'² In the case of ancient demesne, therefore, we have it distinctly laid down that insecurity of tenure attached to villenage of blood, or, in the language of the Norman lawyers, 'nayfté.' Between lord and native holding demesne land no custom could arise,³ since the native might at any moment be deprived of the holding.⁴ The differentia of the villein proper,⁵ as distinguished from the native, was his possession of property. Horne's definition specially insists on this. 'Villeins are cultivators of fee,'⁶ by which is to be understood, of villein-fee, and the very word

demesne land in the Glastonbury Inquisition, *Roxb. Ser.* 21: 'Si dominicum sit occupatum vel foras positum in libertate vel vilenagio, et si ita fuerit domino utilius sicut est vel revocatum.'

¹ 'Sometimes out of ancient demesne we shall meet with the like sort of copy-holds, as in Northamptonshire there are tenants which hold by copy of court roll and have no other evidence, and yet hold not at the will of the lord. These kind of copyholders have the frank tenure in them, and it is not in their lords as in case of copyholds in base tenure.'—Coke, *Compl. Copyh.* § xxxii.

² Bracton (IV. xxviii. 5, f. 209) mentions other privileges; that their villein services were 'certa et determinata,' which was precisely the privilege denied to villeins on demesne lands, and that, being considered free, they were at liberty to leave their holding. Cp. Bracton's *Note Book*, ed. F. W. Maitland, London, 1887, vol. ii. cases 70 and 281. 'Et certas fecit consuetudines et seruicia, quod uillanus facere non potest qui tenet villenagium,' i.e. a 'pure' villein.

³ *Y. B.*, E. T. 13 Ed. III. (27), p. 231. 'Qar entre lui [the lord] et ses tenantz a volente ne poet usage ne custome estre afferme; qar cest sa terre demesne, et il les poet ous'er a sa volente demene'; where the translator, not understanding the legal point, translates 'for it is his own land,' instead of 'for it is his demesne land.' Per Trewith, arg. on demurrer.

⁴ 'Dicitur etiam Dominicum Villenagium, quod traditur villanis, quod quis tempestive et intempestive resumere pos it pro voluntate sua et revocare. . . . Et sciendum quod dominicum dicitur ad differentiam ejus quod tenetur in servitio, et unde dicitur tota die, quod videndum erit quid quis teneat in dominico et quid in servitio.' Bract. f. 263.

⁵ Not the 'pure villein.' See Britton, III. ii. 12 and *Old Tenures*, *supr.* cit. p. 196 n. 1.

⁶ 'Villeins sont cultivers de fief demorants en villages uplande . . . & de villeins est mencion fait en le chartre des Franchises, ou est dit que villein ne soit my cy grefement amerce que sa gaigneur ne soit a luy sarve; car de serfs ne fait el my mencion pur ceo que ils ount rien propre que perdrent.'—*Le Myrrour*, pp. 169, 170. The learned Somner (*Gavelkind*, p. 118) identifies 'upland' with 'molland.' Now, as Dr. Vinogradoff (p. 183) points out, molmen were customary tenants who had compounded services for rent. That composition was possible implies that the services were fixed.

implies security of tenure and interest descendable to heirs.¹ Horne proceeds to refer to the 'Charter of the Franchises' as forbidding 'that a villein should be so grievously amerced that his tillage should not be preserved to him, for of serfs it [the Charter] makes no mention, for that they have nothing of their own to lose.' He probably has in his mind the laws of William the Conqueror.² The twenty-ninth and thirtieth sections are respectively headed in the Latin version of the fourteenth century 'De colonis terrae' and 'De nativis.' It is remarkable that, while the Latin version begins with the words 'coloni et terrarum exercitores,' the original Norman-French has no equivalent,³ as though conscious of the non-existence in the customs of Normandy of a tenure corresponding to that of the Saxon 'ceorl.'⁴ 'Those who cultivate the land,' the law enacts, 'must not be troubled save for their rightful task;⁵ nor is it lawful to the lords to remove the cultivators from their land as long as they are able to do rightful service.' Clearly the assumption underlying this provision is that it is to the advantage of these holders to remain upon their holdings. No such implication is contained in the following section, 'De nativis': 'Naifs who depart from their land ought not to procure a charter of false naifty, so that they should not do their rightful service appendant to

¹ 'Fief villain' or 'feudum villanum' was a technical term; see Du Cange, s.v. Digby, *Hist. of Law of Real Property*, p. 70, Cowel's *Interpreter*, s.v. 'Fee.'

² *Ancient Laws and Institutes of England*, B. Thorpe, London, 1840, p. 201. Possibly he refers to the spurious 'Carta Regis Willelmi Conquistoris de quibusdam statutis,' § 5. R. Schmid, *Die Gesetze der Angelsachsen*, 2 Aufl. Leipzig, 1858, pp. lx and 335.

³ 'Cil qui custient la terre ne deit lum travailler se de lour droite cense; noun le leist a seignurage de partir les cultiurs de lur terre, pur tant cum il pussent le dreit servise faire,' § 29 (Thorpe, p. 207).

⁴ 'The villani of Domesday are no doubt the ceorls of the preceding period.' Stubbs, *Const. Hist. Engl.* I. xi. The 'geneats,' also, as paying rent and doing certain services, are identified by Hale with the villani.—*Domesday of St. Paul's*, pref. p. xxxi. In *Rect. Sing. Pers.*, Thorpe, p. 185, the word 'geneat' is translated 'villanus.' Qu.: Whether 'ceorl' indicated a class, and 'geneat' a tenure, in which case both identifications would be valid. Cp. Schmid, s.v. 'geneat,' p. 596.

⁵ 'Cense' so translated by Kelham, *Laws of Will. the Conq.*, London, 1779, p. 52, though Du Cange interprets 'census' generally as 'rent.'

their land.'¹ Here the implication is that the cultivation of the land of the native is profitable to the lord, and not to himself.² But to the first class, the 'coloni,' or holders of land in villenage, security of tenure is explicitly assured.

Had the appropriation of specified lands to specified classes been maintained, the distinctions between the villein tenures on the one hand, and between villeins and freemen on the other, would have been perpetuated. The seed of their destruction was contained in the legal principle that tenure and status did not reciprocally affect each other. 'Note that tenure in villeinage will make no free man villein, . . . nor will villein land make free man villein, nor free land make villein free.'³ The natural consequence of this principle in a country where, owing to the united influence of the Church and of the Crown,⁴ the number of freemen was steadily increasing and that of serfs declining was the transition of demesne into customary lands. Homer bears witness to the universal experience of mankind of the superiority of the free labourer.⁵ Landowners must speedily have realised the advantages of farming by tenants personally free. And, human nature being what it is, it cannot be questioned that men who were free to make their own terms, in a country but partially cultivated, would demand a tenure at least equal to

¹ 'Les naifs ki departet de sa terre ne deiuent cartre faut naurie quere, que il ne facent lur dreit servise que apend a lour terre,' § xxx.

² The pure villein, *i.e.* the serf holding demesne lands at will on uncertain services, could not leave his holding. Bract. f. 209 s. c. In a case heard in Sussex in 1219 it was laid down as the differentia of a freeman from a villein, 'quia potest relinquere tenementum.' Bract. *Note Book* ii. case 70.

³ 'Et nota que tenure en vilenage ne ferra nul franke home villeyne, sil ne soit continue puis le temps de non memorie. Ne villeyne terre ne ferra franke home villeyne. Ne franke terre ne ferra villeyne frank.' *Old Tenures*, p. 6. I take it that the author intended to insist on the difference between tenure in villenage and tenure of terra nativa. Cp. Bract. f. 4 b. 'Ei qui liber est, villenagium vel servitium nihil detrahit libertatis,' and *id.*, f. 192 b. 'Persone libere villenagium nihil aufert libertatis, nec liberum tenementum villano aliquid confert libertatis.' So Fleta, III. xiii. p. 193 (ed. 1647).

⁴ As expressed in the judicial decisions, though these were largely due to the teachings of the Church. See below, pp. 204-206. Cp. also Fitzherbert, *supra*, p. 193, n. 3.

⁵ *Od.* xviii. 322: 'Ἡμισυ γάρ τ' ἀρετῆς ἀποά'νται εὐρύσκα Ζεὺς
'Ανέρος, εὐτ' ἂν μιν κατὰ δούλιον ἥμαρ ἔλθῃιν.

that sanctioned by the general custom of the neighbourhood in which they happened to live.¹ The regular method of effecting the exchange from demesne to customary land was by assise, 'terra assisa' being the name given to land so allotted.² This, as its name implies, took place before a jury,³ i.e. the jury of the court of the manor, who were witnesses as well as executors of its proceedings.⁴ But, undoubtedly, the same end was attained by less formal methods. In the 'History of the Manor of Castle Combe' is recorded an entry made at a manor court in 1349:⁵ 'Item praesentant [juratores] quod Henricus at Hethe qui de domino tenuit j Mondayland,⁶ nativus, obiit; per cujus mortem accidit domino de herietto xij d. secundum consuetudinem tenurae predictae.' This appears to be a case where, by the grace of the lord, a customary tenure had been granted to a serf or bondman, with the reservation of a fixed service of labour every Monday upon the lands held in demesne.⁷ Similarly, in the Cirencester Abbey Register of the thirteenth century, 'Aldic de la Barre tenet quadrantem terrae quae fuit operaria tenendo carucam,' marking the change from uncertain to fixed services.⁸ Lands

¹ Littleton, § 174, speaking of the possibility of freemen taking land on such services (e.g. 'merchet') as were exacted of villeins by blood, says: 'Il est le folie de tiel franke home d'e prender en tiel forme terres ou tenementes, a tener de le seignior per tiel bondage.' But before the pestilence of 1349 such tenancies are found.

² *Dom. of St. Paul's*, ciii.

³ See Coke upon Littleton, ed. Butler, § 234, n. *Hist. of Cas le Combe*, pp. 159, 160.

⁴ 'Preston (Sussex). Curia tenta &c. 'Willelmus Motard seisitus est una roda terre que fuit de dominico domini et dat domino de ingressu xij d. et de annuo redditu vj d.' &c. Selden Soc. II. 33. ⁵ P. 160.

⁶ In the *Rect. Sing. Pers.* (Thorpe 185) the duty of a Cotsetle upon some lands was to work for his lord every Monday. Nasse erroneously believed 'Monendayesmen' peculiar to Huntingdonshire (*Agricultural Community of the Middle Ages*, p. 42); but the same tenure existed on the manor of St. Paul's at Erdeley in Essex. 'Isti [cotarii] debent singulis diebus lune unam operacionem.' *Dom. of St. Paul's*, p. 27.

⁷ In the *Record of Caernarvon*, p. 110, 'we have a notice of a tenant at will who performed the same services as those who held in villenage.'

⁸ Fuller on the *Tenures of Land in Cirencester*, Bristol and Gloucester Archaeological Society, ii. 285 (1877). Also *ibid.* p. 290, 'the tenure of one parcel of land is described as having been changed from the lower order of labour service to the higher one of maintaining a plough.'

might also, through the carelessness or corruption of guardians during a minority, be suffered to pass from one tenure to another. Such a case may be seen in *Cullyer and Cullyer v. Knyvett*, tried in Chancery in the reign of Edward VI.¹ The plaintiffs' petition was to be secured in quiet possession of twenty acres held of the manor of Cromewells, in Wymondham, Norfolk. It was specially set out in the pleadings that the land in question 'had used to be demysyd and demyttable by copie of courte rowle, according to the custome of the said manour tyme ought of remembrance of man.'² The defence was that the lease was a breach of trust by the guardian of the defendant and void in law, the land 'beyng of the demeasnes of the said manor,' and that, as such, it had been let on a term of years without the formalities of admittance and surrender practised in the case of customary lands. Sometimes careless or dishonest stewards jobbed the lord's rights away.³ Sometimes the demesne was parcelled out among the customary tenants according to the extent of their holdings, and security of tenure granted by a special act of confirmation.⁴

In one manner the status of tenants was affected by the

¹ *Calendar of Proceedings in Chancery*, I. cxxxvii. London, 1827. It may be observed that the law, which allowed guardians in chivalry, after honourable provision for their wards, to recompense themselves for their trouble by making what they could out of the estate, lent itself to questionable transactions. A guardian would find it more advantageous to let demesne either by a lease at common law or upon a customary tenure, exacting a fine from the incoming tenant, than to cultivate it through a bailiff, 'guardianship in chivalry being deemed more an interest for the profit of the guardian than a trust for the benefit of the ward.' See Hargrave and Butler's notes on § 123 of their edition of Coke upon Littleton.

² For the significance of this pleading see Coke upon Littleton, § 73.

³ A curious letter is published in the *Select Pleas in Manorial Courts*, Selden Soc., ii. p. 166, in which a steward complains to the abbot of Batle: 'Et sciatis quod si haberem ad manus rotulos curie tempore Willelmi de Lewes ego vobis certificarem multa mirabilia non oportune facta.' This refers to a case where a villen tenement had been suffered to lapse into a freehold. This was in A.D. 1293. It is not to be wondered at that by the seventeenth century, in Lord Keeper Guilford's opinion, 'most manors are more than half lost.'—*Lives of the Norths*, i. § 26, p. 31, ed. 1890.

⁴ *Hist. of Castle Combe*, p. 81, n.

process of conversion from demesne land held strictly in bondage to other more liberal tenures. The courts established as a legal principle that, where an owner granted land to a villein upon terms other than 'ad voluntatem,' he intended his manumission.¹ And although, as far as the theory of the law went, it was even possible for the services exacted from serfs to be performed by a free man, if a tenant of 'terra nativa,' without derogation of his status,² yet it is a probable supposition that, in practice, tenancy on such terms was almost unknown, at least after the pestilence of 1349.³ In the legal presumption of manumission the law went to great lengths. 'Libere enim tenet cuicumque alius heres quam dominus succedere poterit,' the legal doctrine of villein tenure of whatever kind being that the holding reverted to the lord.⁴ A grant, therefore, to a man and his heirs, without any other words or acts,⁵ involved a 'vehement presumption' of law that enfranchisement accompanied it.⁶ The Courts carried pre-

¹ Blackstone, *Considerations on Copyholders*, 3rd ed., Oxford, 1771, p. 227.

² Fleta, III. xiii. p. 193 (ed. 1647). 'De donationibus servis factis.' 'Sufficit ad libertatem tantum haec clausula—Habendum & tenendum sibi & heredibus suis, eo quod donator per hujusmodi verba innuit manifeste quod in donatione voluit ipsum esse liberum, quamvis hoc verbum "libere" non exprimatur, non obstante incerto servitio ac vilissimo, vel mercheto sanguinis, vel aliis talliagiis voluntariis contributis, dum tamen hujusmodi praestationes fiant ratione tenementi & non ratione personae in donatione comprehensae & reservatae.'

³ Littleton, § 174, *supra cit.*, p. 203, n. 1.

⁴ Hence the 'heriot,' or fine paid by an heir on his succession to copyhold Williams, *Real Property*, pt. iii. ch. i. Qu. : Whether copyholds of frank tenure (*supra*, p. 200, n. 1) were not an exception.

⁵ In a case reported in Bract. *Note Book*, iii. case 1814, tried in 1227, the doctrine of constructive manumission, and with it of a constructive grant of fee simple, was carried to an extravagant length. In this case the father of the defendant had granted the plaintiff, son of a villein by blood of the grantor, the villein holding of the grantee's father for the life of the grantor, 'tenendum libere,' upon certain rents and services. No manumission accompanied. On the death of the grantor the grantee obtained a renewal from the heir of the grantor upon payment of a fine. Held, upon an assise of novel disseisin by the grantee as plaintiff, that the grant to the villein's heir of the land held by the villein 'tenendum libere' was a grant to a man and his heirs, even though no manumission were expressed.

⁶ 'Item, si in charta contineatur, & sine manumissione expressa, habendum & tenendum libere, quiete et pacifice, sibi & heredibus suis, licet homagium non intervenerit, innuitur per hujusmodi verba & vehementer praesumitur, quod

sumption a step further when they inferred a freehold from the circumstance that the services, reserved in addition to the rent, upon a grant accompanied by manumission, were of a personal nature, and a claim to them, therefore, could not be sustained against the grantee's heir.¹ But the greatest step of all in the legal presumption of manumission was taken in the reign of Henry VII., when it was laid down that the grant of land to a villein, *i.e.* a nayf, for a term of years implied enfranchisement, because the grantee took an interest in the land which he could maintain against the lord.² It is not to be wondered at that in England, as in France, the lords of manors endeavoured to exclude the interposition of the Royal Courts by forbidding their tenants to have recourse to them.³

It has been observed that a freeman was not likely to accept grants of demesne upon the uncertain tenure and services of a nayf. If he did so, he was liable, like the nayf,

donator voluit eum esse liberum.'—Bract. II. viii. f. 24 b. So Britton, I. xxxii. § 6.

¹ I take this, though with some doubt, to be the meaning of Case 1918 in Bracton's *Note Book*, iii. It was an action by A, the son of W, for unjust disseisin. The jury found that W had been manumitted by the lord of the manor 'ita quod redderet ei pro tenemento suo iiij solidos et iiij gallinas et manducaret secum quando tulerit gallinas pro omni servitio.' Upon his death his son A refused 'facere antiquas consuetudines,' for which he was evicted. He then brought an assise of novel disseisin and obtained judgment. 'The most destructive influence exercised by the King's Courts over the manorial jurisdictions consisted probably in the inclination of the higher tribunal to narrow the area of land held on tenures traceable to the ancient villenage.' Maine on *Early Law Custom*, London, 1883, p. 315.

² *Y.B.* 11 Henry VII. p. 13. 'Villenagium.' 'Per quel' acte 'villein sera enfranchi ou manumission in ley. Et e contra. . . Si le Seignior a luy [the villein] fait leas pur terme dans, ceo est enfranchisement, pur ceo que il prist interest en le terre vers le seignior.' This was laid down by Hussey, Chief Justice of the K.B. ('William Huse' in Foss's *Tabulae Curiales*, London, 1865, p. 44).

³ Houard, *Anc. Loix*, i. 96. *Hist. of Castle Combe*, p. 240, sub anno 1436, April. 'Praeceptum est per senescallum quod nullus tenens hic implacitet alium tenentem hujus manerii in curia Christianitatis sive in alia curia quacumque, pro aliqua causa quae hic terminari poterit, nisi pro causa rationabili etc. sub poena vj s viii d.' In 1447 the injunction was renewed (*ibid.* p. 244), and in 1455 the penalty was increased to forty shillings (*ibid.* p. 246.) Bracton says plainly that the reason why placita de nativis were triable only in the King's Courts was 'propter favorem libertatis' (III. vii. f. 105 b).

to arbitrary exaction at the will of the lord.¹ The demesne lands granted to such, therefore, were granted and held upon a tenure modelled from that of the customary lands proper. Bacon, like Coke, did not investigate the origin of the distinctions of copyhold tenure. But he was conscious that the change from insecurity, which he erroneously predicates of all copyholds, was effected in some such manner. 'They were called tenants at will by copy of court roll, being in truth bondmen at the beginning; but, *having attained freedom of their persons*, they are now called copyholders, and are so privileged by this custom as that the lord cannot put them out.'²

The demesne lands granted out to freemen upon a customary tenure were distinguished in many manors from the customary lands proper by the ceremony which took place upon admission. This was the delivery by the lord or his representative of a rod or wand, called a 'verge,' to the tenant, who was then said to hold, not by copy of court-roll, but by the verge. Fitzherbert, Littleton, and Coke all mention this fact,³ but none of them understands the historical significance

¹ 'Nec liber homo, si sic [in villenagio] tenuerit, contra voluntatem domini villenagium retinere poterit' Bract. IV. xxviii. f. 208 b. *A fortiori*, a feoffor could eject 'servum sub potestate existentem [*i.e.* on the demesne] de tenemento quod ei dedit libere tenendum.' If he did so, it was incumbent upon him to do some act indicating resumption of dominium, otherwise the serf could bring an action against the feoffor upon his own grant. Bract. IV. xxi. f. 192 b.

² 'The Use of the Law,' *Works*, VII. 485. So another lawyer of the same age, Charles Calthroppe, speaking of the gradual growth of tenants' rights, says: 'Even so may be said of copyholds, as long as the tenants themselves be free, though their tenure were at the beginning never so bound and base' ('*On the relation between the lord of a manor and the copyholder his tenant*,' London, 1635, p. 7). So Coke upon Littleton, § 73: 'And Britton saith that some that be free in blood doe hold land in villenage; and Littleton himself in the next chapter calls them tenants by base tenure.'

³ Fitzherbert, *Surueynge*, ed. 1539, f. 18. Littleton's *Tenures*, § 78. So the anonymous Elizabethan commentator on Littleton invents the foolish reason for it 'that more certain notice might be given of the transmission of possessions,' p. 189, ed. by Cary. Littleton's words are: 'Auxi y sont autres teneantes que sont appellees teneantes per le verge, et tielx teneantes sont en autiel nature come teneantes per copy de court-rolle.' Littleton then describes the proceedings. Coke's comment is: 'This tenant by the verge is a meere copiholder, and taketh his name of the ceremony of the verge.' It is to be observed that, as shown by

of the ceremony, although Coke quotes Britton's description of it. Britton makes its meaning perfectly clear: 'Villenage,' he says, confounding all distinctions under this common term,¹ 'is a holding of *demesne* of any lord, granted to hold at his will by villein services . . . and delivered by verge and not by written title.'² An excellent illustration of the accuracy of Britton's account is to be seen from the case of ancient *demesne*. It has already been mentioned that even in ancient *demesne* there were once tenants of the status of *nativi*, who held entirely subject to the arbitrary will of the lord.³ Those tenants in time, by processes such as those described, attained their freedom. But, having done so, and therewith secured a customary tenure, they remained distinguished from the socmen by the ceremony of the verge, a witness to the original character of their holdings.⁴ Enough has been said to show that both before and after the Conquest, notwithstanding the confusion introduced by jurists

the form of surrender in Fitzherbert (p. 18), the tenant held 'at the lordes wyl, after the custome of this manor.'

¹ See *supra*, p. 194, n. 5.

² 'Villenage est tenement de demeynes de chescun Seigneur, baillé a tenir a sa volenté par vileins services de enprouwer al oes le Seigneur, et livré par verge et nient par title de escrit ne par successioun de heritage.' Britton, III. ii. 12. From this it appears that the verge was not introduced for the first time upon the admission of freemen to these tenancies. It probably indicates a period when writing was a rare accomplishment. In its origin it may possibly have been symbolical of the lord's right 'chastiser a sa volenté.' *Old Tenures*, p. 7. We may compare the phrase 'dum fuerint sub virga et potestate patrum suorum.' Fuller, *Tenures of Land in Cirencester*. Brist. & Glouc. Arch. Soc., ii. 307. Houard (*Anciennes Loix des François*, Rouen, 1779, i. 109, 110, n. 6) suggests that it represented a spear, the emblem of power, actually delivered to the Merovingian kings as a token of investiture with the royal dignity, and replaced at a later date by a sceptre. When the king conferred a fief without the power of alienation, he made the grant by the sceptre (*ibid.* p. 101); so lords enfeoffed vassals by the verge: *vide* Du Cange s.v. 'festuca.' The rod may, however, have been used to represent a symbolical traditio, descended from the Roman law (Just. *Inst.* II. i. 40), called in English law 'livery in deed.' Coke upon Littleton, § 59.

³ *Supra*, pp. 199-200.

⁴ 'The other dwellers in ancient *demesne* (*i.e.* other than the socmen) held in pure villenage, and their successors in old books are sometimes styled tenants by the verge in ancient *demesne*.' Sir T. E. Tomlins in his edition of Littleton's *Tenures*, p. 113.

in the endeavour to sink the distinctions of English in those of Roman law, the difference between villani and servi and between the two sorts of villein tenure was clearly marked. Only in Wales, as a result of its subjugation, were the villeins reduced to bondage.¹ In the Domesday Survey, in the Hundred Rolls, in the monastic and manorial records, above all, in pleadings,² the distinction is invariably maintained. It is *prima facie* difficult, therefore, especially in the teeth of the plain statements of the lawyers, to accept Professor Ashley's view that the distinction amounted to nothing, and that tenants in villenage or copyholders of customary lands were literally *ad voluntatem*, and had no greater security of tenure than either 'natives' or tenants at will³ of demesne, but could equally be ejected without remedy at the arbitrary will of the lord.

Fitzherbert in his book of *Surveyenge* gives an account, which he implies is based on theory rather than research,⁴ of the origin of customary tenants. He remarks that in his day there are customary tenants 'by cōpye of courte role, after the custome of the manour,' and that 'there may be many tenautes within the same maner that haue no copies, and yet holde by lyke custome and seruyce at the wyll of the lorde.' But he assumes that these differences grew up in the lapse of years after the Conquest, and that, under the Norman kings, both classes of tenants were alike bond. In 'Le Nouel Natura Breuium,' he identifies under the term 'copyholders' the various kinds of tenure in villenage.⁵

¹ *Record of Caernarvon*, sup. cit. p. 196, n. 3.

² *E.g.*, in a case of trespass heard in 1505, in which plaintiffs were lords of the manor and defendants customary tenants, the defendants plead *inter alia* 'que les dits xx acres de terre ou &c sont & hors de temps de memori ont este custumarie terres, et nient en demesne,' &c. *Tropnell and another v. Kylyk*, M.T., 21 Hen. VII. (Keilwey's *Rep.* p. 77). Cp. *supra*, p. 204.

³ *Infra*, pp. 219, 220.

⁴ Ch. 13, p. 30, ed. 1539. 'And in myne opinion it began sone after the conquest.'

⁵ *Ib.* p. 12, sub 'Droit Clos.' 'Et cest terme que est ore a cest jour appel copitenants ou copiholders, ou tenaunts per copy, est forsque vn nouel terme troue, car dauncient temps, ils fueront appels tenaunts en villenage, ou de base tenure, & ceo apparoit per les auncient tenures, que ceux tenaunts que teigne per virge ou en base tenure ou per copy de court roll fueront donque appels & nosmes

Fitzherbert's insistence on the identity, so far as their historical origin was concerned, of the customary tenants and the bondmen of a manor was probably due to the obstruction thrown by these customary rights in the way of agricultural inclosures. The statutes of Merton and Westminster showed that freeholders of a manor then possessed a legal community of rights over the waste lands. There are indications that, in times when land was merely a means of subsistence, and not a source of profit, customary tenants enjoyed a like privilege.¹ At a later date special custom of common of copyholders in the waste lands was recognised,² in some cases even to the exclusion of the lord,³ a survival of primitive times. Now Fitzherbert was the literary champion of inclosure. The last chapter of his work on 'Surueyenge' is intituled: 'Howe to make a township that is worth xx marke a yere worth xx li. a yere.' This was to be done by inclosure. It is true that he emphatically protests against being thought to countenance hard treatment of tenants by landowners.⁴ Above all, he denounces a practice which seems to have been resorted to by tyrannical lords, of claiming freemen of a common name as villeins of blood and tenure and evicting them on that account as holding *ad voluntatem* only.⁵ Nevertheless, he

tenaunts queux teignent en villenage : car tenaunts per copy de court roll ne sont specifies, ne nosmes la per tiel nosme, mes uncore a tiels temps fueront tiels tenaunts, mes donque ils fueront appels tenants in villenage ou de base tenure.'

¹ 'The common pasture is called in one passage of the Welsh laws the common waste of the township' (Palmer, p. 42, n. 3). See Williams on *Real Property*, Bk. I. ch. v. Digby, pp. 18, 19, 27, 55.

² *Foiston v. Crachroode*, *M. T.* 29 & 30 Eliz. Coke, *Rep.* Pt. IV. 31 b. pl. 25, n. A.

³ *Ibid.* n. B. There were no rights of common over wastes in demesne, a fact which, taken together with the special custom above mentioned, suggests that the later claims of the lord over the waste may have frequently been pure usurpation (Bracton, *Note Book* II. case 330).

⁴ Prologue to the book of *Surueyenge*.

⁵ 'There be many freemen taken as bondemen, and their landes and goodes taken fro them, so that they shall nat be able to sue for remedy, to proue them selfe fre of blode. And that is moste commonly where the free men haue the same name as the bondmen haue, or that his auncesters, of whome he is comen, was manumysed before his byrthe. In suche case there can nat be to great a punyshment.' (Ch. 13, p. 31, ed. 1539).

does counsel a new departure in the relations of manorial lords to their copyholders in recommending the grant of leases for lives of tenants, their wives and children as well, on condition that they make and maintain inclosures, 'the whiche,' he admits, 'wyl be a great charge to the tenantes.'¹ To enforce counsels of this kind would undoubtedly require in many cases peremptory exertion of the lord's authority.² It is intelligible, therefore, that Fitzherbert should lean to a doctrine of the origin of the rights of customary tenants justifying the assumption of the necessary powers.

That Fitzherbert's account was unhistorical did not escape the observation of the writers of the next age. A reader of Lincoln's Inn, described by the printer of his discourses as 'the late excellent and famous lawyer Charles Calthrope,'³ after quoting Fitzherbert, remarks: 'Which said opinion of Fitz Herbert have beene by divers wrested to make no diversity betweene tenure in villenage & tenure by copy of court role or base tenure.' He asserts that, with the exception of Fitzherbert, 'all other Authorities in our Law doe make and appoint difference between the tenures.' He cites the 'Booke of the Old Tenures,' as making 'a plaine distinction betweene tenure in villenage and Tenure in Fee Base, which is understood this tenure by copyhold, and calleth this a Fee, although a base Fee, and maketh divers distinctions betweene them,

¹ *Ibid.* ch. 41. The meaning of this is that whereas copyholds were generally granted for the life of the tenant, renewable on fine, the special grant for lives in remainder would be a compensation to him for the work imposed upon him by the inclosure. See *infra*, pp. 248, 249.

² Latimer must surely have had Fitzherbert's book in mind when, in his first sermon before Edward VI., he said: 'Surueyers there be, that gredely gorge up their couetous goodes; handmakers I meane, honest men I touche not, but all such as suruey, they make vp theyr mouthes, but the commons be vtterly vndone by them.' And Crowley, in his epigram *Of Rente Rayssers* (E.E.T.S. p. 46)—

'A manne that had landes
of tenne pounce by yere,
Surueyed the same
and lette it out deare;
So that of tenne pounce
he made well a score,' &c.

³ London, 1635, p. 4, foll.

and sayth, that the tenants in villenage¹ must doe all such things as their lord will command them. But otherwise it is of the Tenants in Base Fee.' Coke, criticising Fitzherbert in the same vein, more specifically notices² that in the Year Books 'copyholders' are so called in 1 Hen. V. 11 (1413); in 42 Ed. III. c. 25 (1368) they are spoken of as 'tenant per roll solonque le volunt le seignior'; and in the statute of 4 Ed. I. (1275), intituled 'Extenta Manerii,' they are spoken of as 'customarii tenentes.' In a case heard in 1224 they appear as 'consuetudinarii.'³ It is not necessary for the purpose in hand to further trace the connexion between the cultivators of these customary lands and the geneâts, or other occupiers with similar tenures, in the period prior to the Conquest. It has been seen that the villeins were an entirely different class from the serfs protected in their holdings by the laws of the Conqueror. That the land holden in villenage out of the demesne was subsequently called customary or copyhold land there is no dispute. The question is, what incidents attached to the tenure? Lands held in villenage, customary

¹ This loose use of the term 'in villenage' is not infrequent, arising from the false identification, already mentioned, of villeins and *nativi*. An example of it occurs in the *Placit. Abbr.*, T.T. 15 Ed. I. p. 213. 'Berks. Henricus Dymmock dedit per cartam suam Willelmo de Bereford unum messuagium & unam virgatam terrae cum pertinentiis in Westwitenham, videlicet, illud messuagium quod Johannes Gowyn tenuit in villenagio. Item dat dictum Johannem Gowyn nativum suum.' Cp. *supra*, p. 195, n. 1.

² Coke upon Littleton, § 73, n. (a). Coke adds: 'And so doth Fleta call them, & before him Ockam, who wrote in the reign of Henry II., spake of them, & how & upon what occasion they had their beginning.' The reference to Fleta is II. 71, § 15, but this does not carry us further back than the date of the *Extenta Manerii*. In the manors of St. Paul's at about the same period, they bore the same name (*Domesday of St. Paul's*, p. 154). The reference to Ockam I have not been able to verify. Hargraves has a note that Ockam's work is unknown. Perhaps Coke intended a reference to the *Dialogus de Scaccario*, by some ascribed to Ockam, but shown by Madox to have been the work of Richard Fitznigel, bishop of London in the reign of Henry II. Cp. Liebermann, *Einleitung in den Dialogus de Scaccario*, Goettingen, 1875. I have not, however, been able to fix the passage intended by Coke.

³ Bracton's *Note Book* iii. Case 995. In 1221 a defendant is described as 'villanus et consuetudinarius.' Selden Soc. I. case 138. Nasse (p. 39) remarks that in the *Placit. Abbr.*, p. 161, 'villanus' and 'consuetudinarius' are identical. Cp. *supra*, p. 195, n. 1.

or copyhold lands, might or might not be held by villeins.¹ 'Tenure in villenage is more properly when a villein holds of his lord, to whom he is villein, certain lands or tenements according to the custom of the manor or otherwise at the will of his lord, & to perform to his lord villein service.'² It differed from serfdom in this important respect, that the grant of a customary tenure implied willingness on the part of the lord to compound his rights once and for all for the customary dues reserved. By force of this it was held by the courts that even the serf could hold property against his lord,³ who was not allowed to resume his rights by withdrawal of the grant. The grant was in the nature of a contract, which one party, the grantor, was not permitted to break so long as the other, the grantee, fulfilled its terms.⁴

The 'Statutes of the Realm,' among Acts 'incerti temporis,' and Fitzherbert in his *Surueyenge*,⁵ give the form of fealty by a villein, as distinguished from a freeman, to his lord. The villein's oath runs: 'Here you, my lord R., that I, W. de L., fro this day forth to you shal be faithful & lowly and to you shal do al the customes and seruices that I ought to do to you, for the landes that I hold of you in vyllenage.' The implication is that the customs are fixed, and that, being performed, the tenure is secure. This is the reason for fealty expressly alleged by the Elizabethan commentator on Littleton.⁶ Littleton himself in his *Tenures* insists (§§ 82-4)

¹ 'Item de customariis . . . qui possunt talliari ratione sanguinis nativi, & qui non.' Fleta II. 71, § 15.

² Littleton, *Tenures*, § 172.

³ Otherwise, as was argued in the case of a bondwoman holding upon demesne, 'par ley de tere tut ceo qe le vileyn ad si est a soun seignour.' *Y. B. E. T.* 13 Ed. III. (27), p. 235. Cp. *ibid.* M. T. 13 Ed. III. (54), p. 102. Britton, II. vii. 1.

⁴ 'Si agat de conventione & dominus excipiat de servitute, replicare poterit de facto domini sui, sicut supra dicitur de feoffamento: nec debent jura juvare dominum contra voluntatem suam, quia semel voluit conventionem, & quamvis damnum sentiat, non tamen fit ei injuria, & ex quo prudenter & scienter contraxit servo suo, tacite renunciavit exceptionem villenagii.' Bract. f. 24, b. Cp. *infra*, p. 220, n. 1, & 227, n. 1.

⁵ Ch. 18, p. 38, ed. 1539.

⁶ Edited by H. Cary, London, 1829, p. 194.

strongly on the contrast between 'tenant a volunt, qui est eins per lease son lessor per le course del common ley, & tenant solonque le custome del maner,' and, he says: 'Lun tenant per le custome ferra fealtie, & lauter nemy.' Upon this Coke observes, 'And the doing of fealty by a copiholder proveth that a copiholder, so long as he observes the custome of the manor and payeth his services, hath a fixed estate. For tenant at will, that may be put out at pleasure, shall not doe fealty.' The meaning of this is that the obligation created by oath of fealty was reciprocal.¹ The doctrine of attornment, based upon the ancient legal incapacity of the feudatory to alienate his fief without the consent of his vassals, and which we are expressly told by Littleton applied to customary tenants, but not to tenants at will of the demesne,² points the same way. It is surprising that in face of these facts of fealty and attornment and Coke's authoritative interpretation of their meaning, anyone should be found to affirm that 'so far as the mass of copyholders were concerned, they had, at the beginning of the period (1450-1550), no legal security.'³ Bishop Stubbs, speaking of the fourteenth century and of the period anterior to it, truly says: 'Notwithstanding that the Norman lawyers depressed the English ceorl to the level of slaves, the villein retained his customary rights, his house and land, and rights of wood and hay.'⁴ A case in the Year Books of 1358-59⁵ indicates the basis on which those rights rested. The plaintiff brought an assise of novel disseisin. The defendant, a prior, pleaded 'quod dictus Willelmus [the plaintiff] est natus, et quod dictum tenementum . . . est

¹ 'That it was binding on both sides appears from the most authentick explanations of this engagement.' Wright on *Tenures*, 1730, p. 13, n. Wright quotes from Rav. in *Cons. Feud.* Lib. II. Tit. 6, p. 115. 'Dominus non tenetur jurare Vassallo fidelitatem, sed in effectu tenetur sibi in tantum absque sacramento in quantum tenetur vasallus Domino cum sacramento—et vice mutua est obligatus Dominus vasallo suo virtute dictae fidelitatis (scilicet) a vasallo juratae.'

² Littleton, *Tenures*, § 553, and Bract. II. 81, cited by Coke upon Littleton, § 551. *Infra*, p. 258, n. 2.

³ Ashley on the *Character of Villein Tenure*, p. 5.

⁴ *Const. Hist. Engl.* ii. 453.

⁵ *Y. B.* 32 & 33 Ed. I. p. 514.

villenagium¹ dicti Prioris, et de ipso Priore tenetur in villenagio, quousque dictus Willelmus serviles consuetudines subtrahit; qua subtractione seisivit dictum tenementum.² Had tenure in villenage imported no rights, even when the tenant was a 'nativus,' the defendant would have been under no necessity to have recourse to such a plea. The conclusion is obvious; that the tenure of customary lands was secure against the lord, even where the tenant was a 'villein by blood,'³ so long as the services were performed.⁴ Of this we have a distinct indication in the history of the manor of

¹ The plaintiff obtained judgment on the ground, apparently, that it was a 'liberum tenementum.' The defendant, assuming it to have been a holding in villenage, would have been justified in evicting him for asserting it to be his free hold; this being held to be 'to the disinheritance' of the lord. This fact has to be borne in mind in considering cases of this class. See *Y. B. M. T.* 13 Ed. III. 54, p. 104.

² Another case, heard in 1224, is to the same effect. Here the defendant in an assise of novel disseisin pleaded 'quod idem Willelmus [the plaintiff] 'est uillanus et terra illa est uillenagium et debet ei has uillanas consuetudines.' The plaintiff had refused the services, alleging frank tenement. The judgment was 'quod Willelmus convictus est de vilenagio et si facere uoluerit predictas consuetudines teneat illam bouatam terre per easdem consuetudines sin autem faciat Bartolomeus de terra et de ipso Willelmo uoluntatem suam ut de uillano suo et ei liberatur.' Bracton's *Note Book* I. case 913 and III. case 1103. Clearly the lord had no power to evict if the tenant rendered his customary services, although, as the concluding phrase seems to indicate, the tenant was a 'nativus.' The services were often refused, generally on the plea of freedom or frank tenement, and a writ 'De consuetudinibus & seruitiis' lay to enable the lords to exact them. (*Fitz. Nat. Brev.* 81.) On other legal aspects of these cases, see below, p. 226.

³ In the *Domesday of St. Paul's*, p. 52, occurs: 'De terris Akermannorum. Terre Akermannorum quas dominus potest capere in manu sua cum vult sine injuriis hereditarie successionis.' The meaning of the last clause is not quite clear, but only two alternatives are possible. It either implies that the rule of hereditary succession was general upon the manors of St. Paul's, subject to this exception, or that the resumption by the lord of the land of the Akermanni did not involve the exclusion of their heirs. Either interpretation confirms the contention of the text. The Akermanni are not mentioned in Du Cange. Hale gives reasons for believing that in this case, at any rate, they were 'servi.'

⁴ A case somewhat less strong, inasmuch as it does not appear that the tenant was a villein by blood, is given in the *Y. B.* 42 Ed. III. c. 25. In this case a prior brought an action of trespass after eviction. The defendant pleaded that the land was his freehold. The jury found 'que le dît J. tient mesme le terre del Prior per copy de court rolle a volente le Prior, pur ce que fut niefte terre, & pur

Castle Combe, where, sub anno 1367, is recorded the admission of a 'nativus domini' to land to be held 'in bondagio secundum consuetudinem manerii.'

It may be asked, if the lord could not arbitrarily evict a 'nativus' from customary land, for what purpose the distinction

ce que J. ne voet faire ses services de le terre, le Prior le seisist.' It is clear from this that a plea of non-feasance of service was necessary to justify eviction.

Professor Ashley quotes, p. 5, from the *Staffordshire Collections*, Pt. V. i. p. 81, a case in which the Abbot of Burton, in 1280, 'annoyed by some proceedings which his villeins of Mickleover had ventured to bring against him in the royal courts, proceeded to evict them all and to seize their cattle. The sheriff sent a writ for the restoration of the cattle; but it was never obeyed; and when some of the tenants brought an action for theft, the Abbot boldly answered that, being villeins, nothing was their own but their bellies, and they could get no remedy. Apparently it never occurred to the sheriff to order the restoration of their tenements; and although they were finally reinstated on paying heavy fines and acknowledging themselves to be "serfs at the will of their lord," it was of the Abbot's free grace.' In inferring from this the insecurity of villein tenure, Professor Ashley appears to have overlooked certain important points. In the first place, the case opens with the statement that the customary tenants of Mickleover claimed to be free tenants. In other words, they refused to do their villein services. The Abbot, therefore, if the land was, as he proved, held in villenage, was justified in evicting them; while, if he failed to prove they were serfs on demesne, he was not justified in seizing their cattle. See *Y. B.* 42 Ed. III. p. 25. In the next place, the villeins asserted that they were tenants of Ancient Demesne. They failed to prove this: but the plea suggests that the Abbot's case was that they or some of them were *nativi* upon his demesne, which sufficiently explains his statement that they held nothing 'extra ventrem.' It is to be observed, too, that six who made submission did so in the terms that they were '*nativos ad voluntatem domini*.' Another of them 'acknowledged himself to be the Abbot's native, holding at the will of the Abbot in villenage' for certain recited services, and for his promise to perform these he was readmitted, and thirty-one others upon similar terms. The case entirely supports, so far as it goes, my contention that while *nativi* on demesne were unprotected, even *nativi* on customary land enjoyed security subject to performance of services.

In an *Inquisition of the Abbey of Cirencester*, belonging to the thirteenth century, it is recited that 'In villa de Cirencestria sunt diversi terram tenentes qui tenent de predicto Abbate ut de manerio predicto et de jure ecclesie sue et per opera nativa, redditus, servicia et consuetudines subscripta, videlicet Johannes Gyfford, webbe, qui &c.' The services &c. of this weaver are then set down, and a covenant of re-entry follows for the benefit of the Abbot in the event of waste, non-payment of rent, or alienation without the lord's leave; not, it is to be observed, in default of services, that being an implication of the tenure. Clearly, if the tenant had no security against arbitrary eviction, these covenants were superfluous. Fuller, pp. 312-5.

of villein blood was maintained among customary tenants.¹ The answer is that while freemen, before the time of money compositions, generally the fourteenth century, were bound to do predial service,² villeins by blood were liable, because of their blood, to certain further personal dues from which their tenure did not exempt them. According to the law books villeins by blood were 'talliabiles de alto & basso ad voluntatem domini.'³ It was in the right of a lord of a manor 'talliare villanos suos de alto & basso, pro voluntate sua, et villani faciunt merchetum carnis & sanguinis.'⁴ That this was true only in the case of villeins by blood or natives appears from Fleta, who, in describing the inquiries to be made upon an extent, or survey of a manor, says: 'Item de customariis quot sunt, & quae sit eorum secta . . . & qui possunt talliari ratione sanguinis nativi, & qui non.'⁵ But

¹ In ancient court-rolls villeins are distinguished as 'villani capitis,' or villeins by blood, from the villeins 'ratione tenurae.' T. E. Tomlins' edit. of Littleton's *Tenures*, p. 241.

² 'Non est tam liber homo qui non habet arare et cariare cum plastro si habet vel cum biga' &c. Cirencester Abbey Register in Fuller, p. 286.

³ *Placit. Abbrev.* T. T. 30 Ed. I., Northt. p. 246. 'Juratores dicunt quod Johannes de Brochull de Wedon est villanus abbas de Becco Herlewini talliabilis de alto et basso ad voluntatem suam. Et dicunt quod pro eo quod fuit rebellis, Willelmus de Grafton senescallus ipsius abbatis ipsum cepit & in cippis posuit.' It is to be observed that the record uses the generic term 'villanus'; but we know from Horne that serfs, as distinguished from villeins, might be put in the stocks by their lords. See *supra*, p. 195, n. 3.

⁴ T. T. 18 Ed. I. p. 221. The 'merchetum,' or fine paid to the lord on the marriage of a daughter, was a special mark of villein blood. *Y. B.*, E. T. 10 Ed. III. 41, p. 22. For its origin see Du Cange, *sub* 'Marcheta.' Bracton says (II. viii. § 2), 'Merchetum vero pro filia dare non competit libero homini, inter alia, propter liberi sanguinis privilegium,' &c. Cp. Littleton, *Tenures*, §§ 174, 209. A learned discussion of the term appears in the introduction to *Y. B.* 15 Ed. III. by Mr. Pike, the editor.

⁵ Fleta, ii. 71, § 71. The *Extenta Manerii* (4 Ed. I.) has the same words, with the addition 'ad voluntatem domini' after 'non.' In the *Placit. Abbrev.*, 52 Hen. III. p. 161, is a curious case in which the villeins upon the demesne of a manor having been evicted for refusal of services brought an action against the evictor, who in some capacity not stated represented the Crown, on the ground that they were socmen. The defendant, Petrus de Nevill, 'dicit pro domino rege quod ipsi sunt villani domini regis et debent facere pro terris suis omnimodas consuetudines villanas; talliari ad voluntatem domini regis vel illius qui terram illam tenuerit ex commissione domini regis, & marchetum facere pro filiabus suis

he adds of the customary tenants generally that the tallages imposed are not to be such as to involve ruin or abandonment of the holding.¹

The right to exact these tallages plays a not unimportant part in the history of customary tenure. It was asserted by the clause in a grant of copyhold 'tenendum ad voluntatem domini,' *the omission of which would have been*, as has been shown from the decision of the Courts, *a manumission of the person of the grantee*,² and therefore a loss of dues, 'ratione sanguinis nativi.' Customary lands, on the analogy of feuds,³ were originally granted for life.⁴ But for the limiting clause the grant would have been of a freehold,⁵ anciently called 'frank-tenancy.'⁶ Coke states that in Northamptonshire 'there are tenants which hold by copy of court roll, and have no other evidence, and yet hold not at the will of the lord. These kind of copyholders have the frank-tenure in them, and it is not in their lords, as in case of copyholds of base tenure.'⁷ It is quite intelligible,

maritandis et non possunt vendere pullum masculum nec bovem suum qui sibi orti fuerint sine licencia' &c.

¹ Fleta, *l.c.*, 'sine destruccione & exilio faciendo.' The same phrase is used in the conclusion of the last case. For a case in which such excessive impositions had been exacted see *Y. B. 14 Ed. III. n. 1.*

² See *supra*, p. 205. Blackstone, *Considerations on Copyholders*, p. 227. The importance of understanding the origin of this form will be seen by the fact that it is upon it that Professor Ashley bases his argument that copyholders had no security. See p. 5 of the *Character of Villein-tenure*.

³ *Supra*, p. 200.

⁴ See Seebohm, *Engl. Village Community*, 2nd ed. p. 30.

⁵ And here it will be necessary to distinguish two senses of the word frank-tenement or freehold. . . . By the word 'freehold,' then, is sometimes meant the *interest* or estate itself which the tenant holds in the land; sometimes the *tenure* by which that estate is holden. . . . Therefore a tenant in fee-simple, fee-tail, or for life is said to have a freehold *interest*, whatever his *tenure* may be; but none except he who holds, or did hold, by knight's service, in free socage, or in frankalmoign can be said to have a freehold *tenure*. Blackstone, *Cons. on Copyh.* pp. 222-223. Cp. Coke, *Compl. Copyh.* §§ 15-17. 'A freehold is taken in a double sense. . . . In respect of the state of the land; so copyholders may be free-holders,' &c. On which passage see Blackstone, *l.c.*

⁶ 'Dautre part devient serf frank si son seignor luy graunt doner franke estate' (*Le Myrrouir*, p. 167).

⁷ *Compl. Copyh.* § 32. Such tenures are called customary freeholds. See Tomlin's note to Littleton, *Tenures*, § 73.

therefore—indeed, it is strictly in accordance with the habitual conservatism of legal language—that the phrase ‘at the will of the lord’ should be usually added *ex majori cautela* in cases of grants of copyhold. But as this in the case of a freeman would have implied a tenure, the acceptance of which would have been, according to Littleton, an act of folly,¹ the protection of the words ‘secundum consuetudinem manerii’ was added for such a one’s benefit. For ‘the custom of the manor’ was freely admitted in law courts as a plea in the mouth of frank tenants.² The rapidity with which manumission proceeded, and the growing rarity of the case in which customary land was held by villeins in blood, naturally led to the general adoption of the protective clause. No doubt the retention of the more ancient phrase ‘at the will of the lord’ owed something to the theory, which in time became established, that all land was originally the property of the king, and through him of the lord.³ But a mere theory, supervening upon contrary established usage, was impotent to change the conditions of tenure. For ‘consuetudo vincit communem legem.’⁴

In discussing the phrase ‘ad voluntatem’ Littleton is careful to point out the layman’s error of a literal interpretation of it when applied to customary tenure. ‘And there are divers diversities between tenant at will, which is in by lease of

¹ *Tenures*, § 174. See *supra*, p. 203, n. 1.

² *Y. B., E. T.* 13 Ed. III. case 27 (1339), in which, after establishing the point that custom could not be pleaded between a lord and villeins upon his demesne, counsel goes on to say, ‘Quil y ont xxiiij hides de terre del dreit del eglise de seint Paule, deinz queux cel manoir est, ou lusage est tiel que les franks deinz les hides poient vendre leurs terres,’ &c.

³ Cp. Digby, p. 25. Mr. Digby speaks as though this doctrine was of Norman origin; but it is significant that *geneat*-land, which was held by freemen for rent and services, like customary freehold, was divided into ‘*útland*’ and ‘*in-land*’ (the *demesne*), as though all belonged to the lord (Schmid, p. 596). So Coke (*Compl. Copyh.* §§ 12–14) quotes Bracton, IV. iii. cap. 9, num. 5, and Fleta, v. 5, to show that copyhold land was in law part of the lord’s *demesne*, though this does not seem to have been judicially decided till the reign of Elizabeth when it was held that ‘if the lord of a manor granteth away omnes terras suas dominicales,’ the copyholds, parcell of the manor, pass by these general words. Coke, *l.c.*; but *quære* in the case of the king. Gilbert on *Tenures*, ed. 1824, p. 407. See also *supra*, p. 210, n. 3.

⁴ *Per Cur.* in Brown’s case, Coke, *Rep.* ii. 319.

his lessor by the course of the common law, and tenant according to the custome of the manor in forme aforesaid. For tenant at will according to the custome may have an estate of inheritance (as is aforesaid) at the will of the lord, according to the custome and usage of the manor.'¹ Coke's note upon this is: 'Here note that Littleton alloweth that by the custome of the manor the copyholder hath an inheritance, and consequently the lord cannot put him out without cause.' So Fitzherbert distinguishes four classes of tenants: freeholders, customary tenants, tenants by indenture, and tenants by the lord's will.² It must be remembered that Littleton wrote at the beginning³ and Fitzherbert in the course of that period of agricultural revolution in which, it is now alleged, there was an absence of

¹ *Tenures*, § 82. Coke's translation. 'Car tenant a volonte solonques le custome poet aver estate denheritance, come est avaudit, al volonte le seigneur solonques le custome et usage del manor,' and cp. *supra*, p. 186, n. 2. On common law tenancy at will see Littleton, *Tenures*, § 68.

In *Y. B.* § Ed. IV. p. 12, upon an objection taken to pleadings, common law tenancy at will is contrasted with customary tenancy at will. 'Et la barre fut challenge pur autre cause, pur ceo que n'est monstre en son ple coment il est tenant a volonte & ceo est traversable, & purceo covient estre monstre coment il tient a volonte del lessor, ou per sufferance a tener a volonte, ou per feoffement a luy & a les heires a tener ad voluntatem domini secundum consuetudinem manerii' &c. On tenant at sufferance see Coke upon Littleton, § 72. In *Y. B.* 14 Ed. IV. p. 6, Littleton himself argued a case of the lessee at will (*i.e.* at common law) of a manor, the lessee's occupation being 'determinable al volunt son lessor.' Similar cases of the leasing of manors at will are in the *Y. B.* Hen. IV. and Hen. V. (See index, pt. 6.) Also 21 Hen. VI. p. 37. Manors were habitually so leased, especially upon ecclesiastical property. *Domesday of St. Paul's*, pp. xxxviii-xli. The difference between the two tenancies 'at will' was interpreted by later lawyers to be this, that in copyhold the tenure was 'after the ancient will of the first lords,' Wright's *Tenures*, 1730, p. 221. Cp. *supra*, p. 213, n. 4. As Coke puts it, 'His commencement is at the will of the lord' (*Compl. Copyh.*, § xxxii.).

² *Surveyence*, ch. 17, p. 35, ed. 1539. In accordance with the precepts of Fitzherbert, upon a survey of the lands of Sir J. Bulmer, attainted in 1537, the tenants are given in separate lists—the freeholders, tenants by indenture and copy of court roll, and tenants at will. Gaird, *Letters and Papers*, XIII. ii. 44. Cp. Dugdale, *Monast.* i. 262, for the computus of Malmesbury monastery, and alibi. It should be observed that Fitzherbert's words are 'tenaunts by indenture or tenautes at the lordes wyl,' showing that he had in view the deme-sne, on which those two classes of tenants were to be found.

³ According to Coke, between the fourteenth and twenty-first years of Ed. IV. (Preface, p. xxxiii.)

legal security for copyhold tenants, because they held *ad voluntatem*. There can be no doubt that, however great the disposition of lords of manors to tyranny, the existence of ancient demesne exerted a persistent influence upon the whole manorial system. The very phrase by which customary tenants secured themselves from exaction appears to have been borrowed from it.¹ Even the villeins by blood in ancient demesne, whose position had been originally so precarious,² had, perhaps, first borne the title, by which customary tenants of demesne were afterwards known, of 'tenants by the verge.'³ Apart from security of tenure, which has been already mentioned,⁴ the tenants in ancient demesne enjoyed the right of fixed services, although upon demesne land—a right appreciated and spoken of as a privilege.⁵ Hence from early times perpetual claims by villeins that their lands were of ancient demesne. In the Hundred Rolls of Edward I.,⁶ upon the estate of Barton Magna, Oxon, three 'cotarii' held cottages, apparently upon the demesne. One of them paid a fixed money composition in lieu of service.⁷ The other two, as villeins of blood, were subject to uncertain service. After their names

¹ 'Socage en ancien tenure est a tenir en ancien demesne ou nul brief courte forsque le petit brief de Droit Clos: que est appelle *secundum consuetudinem manerii*' (*Old Tenures*, p. 5, ed. 1525). A case heard in 1202 suggests that customary courts first arose among the holders in villenage upon ancient demesne (*Placit. Civil.*, Selden Soc., iii. 123).

² *Supra*, p. 199.

³ *Supra*, p. 208. As to the early commutation allowed them, *infra*, pp. 222, 223.

⁴ *Supra*, p. 199.

⁵ Bracton, IV. xxviii. f. 209. 'Quod dicitur socagium villanum, et quod est villenagium, sed tamen privilegiatum. . . Villana autem faciunt servitia, sed certa et determinata.' The language of the Act 1 Ric. II. c. 6 indicates that the object of the false claims of ancient demesne was to escape predial service. 'Ils saferment destre quites & outrement deschargez de tout maner de servage, due s bien de lour corps come de lour tenures avaunt ditz.'

⁶ II. 843, 844.

⁷ I take this to be the meaning of 'tenet j cotagium libere,' as he is not among the 'libere tenentes,' a list of whom follows. He held by socage in frank tenure, which is described as 'a tenir frankement pur certeyn rent pur toutz maners des services' (*Old Tenures*, p. 5, ed. 1525), while they added 'liberum servitium' to their money compositions. See Cowel, *Interp.* s.v.

stands recorded: 'Omnes isti villani clamant se esse de antiquo dominico domini Regis. Nos neque antecessores nostri ipsos in alio statu quam villanos a tempore non numerato vidimus.' In 1339 a like claim was put forward by a tenant of part of the demesnes of St. Paul's.¹ During the social upheaval that followed the great pestilences of the fourteenth century those claims were multiplied. An Act of 1377² was passed to suppress them. It clearly distinguishes between villeins pure and holders in villenage, and mentions that both classes procured the assistance of landlords who sold them these alleged rights for money.³

The great advantage to the lord of the system of fixed payments in lieu of services is obvious. To the tenant they afforded security against oppressive exaction or against eviction on the plea that services had not been duly rendered. As in the case of ancient demesne, so in the other royal manors, this was a privilege which the kings set an example in conceding. In the *Extenta Manerii* of 1275 record is ordered to be made, not only of 'quae opera et quas consuetudines faciant,' but also 'quantum valeant opera et consuetudines cujuslibet customarii per se per annum.'⁴ Both this statute and Fleta, who wrote a little later, assume part, if not the whole, of the demesne to be let out.⁵ As early as the

¹ M. T. 13 Ed. III. (54), p. 103.

² 1 Ric. II. c. 6. 'Les villeyns & terre tenantz en villenage, qi deyvent services & custumes a lour seigneurs, ount ore novelment retret & retriennent de jour en autre lour custumes & services duez a lour ditz seigneurs, per confort & procurement dauters lourz conseilours meyntenours & abettours en paiis qont pris louer & profit des dites villeyns & terre tenantz, per colour de certains exemplifications faitz hors de livre de *Domesday*.'

³ The object of this proceeding apparently was to assure the villein in demesne security of tenure and fixed services, while, as appears from the Act, the tenant in ancient demesne could not be proceeded against by other lords for subtraction of services, except in the court of the manor of ancient demesne. This enabled him to set at defiance the courts of other manors in which he held lands, and for which he was liable to service. See Hale's *Introd. to the Domesday of St. Paul's*, p. lviii.

⁴ 4 Ed. I. stat. 1.

⁵ 'Item, inquirendum est quot campi sunt in dominico, et quot acrae terrae sunt in campo et quantum valet quaelibet acra per se per annum; item, inquirendum est quot acrae prati sunt in dominico, et quantum valet quaelibet acra ad locandum per se per annum.' So Fleta, ii. 71, §§ 3 and 4.

reign of John money commutations for services, even in the case of villeins by blood, had gone far on the property of the abbey of Cirencester.¹ This, however, was land held in ancient demesne.² Upon this estate in the year 1313 all the tenants of the manor were socmen, that is, they paid rent in lieu of ail service save haymaking and harvesting.³ Upon a lay manor, that of Castle Combe, universal commutation, alike for tenants in villenage, tenants in demesne, and bondmen, took place a little later, in 1352.⁴ Upon the manors of St. Paul's the change belongs to about the same date.⁵ It must be remembered that, at this time, the competition was for labour, not for land,⁶ as is evident from the Act of 1377⁷ and the Statute of Labourers of 1349 with its successors.⁸ Compositions in money in lieu of services were the outcome of this state of things. They indicate, and, as definitely fixing the terms of tenure, insure, an improvement in the position of agricultural tenants. A return by a jury of a Welsh manor,⁹ accounting for a decline of rents since the reign of Edward III., ascribes it in part to the rising of Owen Glindor, but also to 'the great mortalitie and plagues which in former tymes had been in the raigne of Edward the Third, by reason of which mortallity and rebellion the country was wasted, the tenaunts and their houses distroyed, insomuch that the then Lords of the Soyle were constrayned by their stewards and officers to graunte the said landes at a lesser rent than

¹ Fuller, p. 301.

² *Id.* p. 304.

³ Fuller, p. 310. In 1206 we read of a remission of villenage for a fixed rent (Selden Soc. III. c. 78).

⁴ *Hist. of Castle Combe*, p. 81, always reserving the right to levy tallages *ratione sanguinis nativi*. See *ibid.* pp. 223-25.

⁵ *Domesday of St. Paul's*, pp. lvi-lix.

⁶ Rogers, *Hist. Agric.* iv. 3.

⁷ 1 Ric. II. c. 6.

⁸ 'Quia magna pars populi & maxime operariorum & servientium jam in ista pestilentia est defuncta, nonnulli videntes necessitatem dominorum & paucitatem servientium servire nolunt nisi' &c. 23 Ed. III. c. 1. Cp. 25 Ed. III. stat. 2, cc. 1, 2 (1351); 31 Ed. III. c. 7 (1357); 34 Ed. III. cc. 9, 10, 11 (1361); 42 Ed. III. c. 6 (1368).

⁹ In the appendix to Mr. Palmer's *Hist. of the Ancient Tenures of Land in the Marches of N. Wales*, p. 130. The date of the return is apparently the reign of James I.

formerlie was paid for the same *to such as could be gotten to take it.*¹ It is the voice of tradition, but it bears with it the echo of truth. One consequence of the change from services to money payments naturally followed. As we see from the Hundred Rolls, accounts were returned of dues and services owed to the lords of manors when demanded by Government. But these returns were constantly disputed, and the law reports of the thirteenth century are full of cases in which services claimed by the lords are stated to have been commuted by the tenants, or are altogether denied.² No doubt, as we see from the *Liber Niger* of Peterborough and the *Boldon Book* of Durham, extents were kept upon ecclesiastical manors at least as early as the twelfth century,³ but they were records for the benefit of the lord, not to establish the rights of the tenant. The tenant did not rely upon such authority until the period in which fixed compositions had been substituted for services. That was the time at which the conditions of the land market were most favourable to his demands. It was then that he became tenant '*per irrotulamentum curiæ*,'⁴ and the cases of lawless oppression to tenants, of

¹ So in the *Hist. of Castle Combe*, a tenant is admitted on payment of a fine: 'Et dictum tenementum concessum est ei ad tam parvam finem, eo quod dictum tenementum est ruinosum et decassum, et existerat in manu domini a tempore Pestilentie, pro defectu emptorum' (*sub anno 1357*, p. 161).

² In Brac on's *Note Book*, i. case 916, an assise of novel disseisin is brought by William Fitzhenry against Bartholomew Fitzeustace. 'Et Bartholomeus uenit et defendit iniuriam et dicit quod idem Willelmus est uillanus et terra illa es uillenagium et debet ei has uillanas consuetudines, scilicet—[then follows a long list of customary services alleged due]. Et Willelmus defendit omnes illas consuetudines et dicit quod non debet inde nisi tres solidos et iiij denarios per annum pro omni seruicio, et inde posuit se super iuram.' (A.D. 1224.)

³ The *Liber Niger* of Peterborough dates from 1125; the *Boldon Book of Durham* from 1183; the *Domesday of St. Paul's* from 1222; the Register of the Prio y of St. Mary, Worcester, from 1240; the Cartulary of Newminster from 1250; that of Gloucester from 1266; the Rotulus Redituum of the Abbey of Kelso from 1290. All these were 'extents' of manors belonging to ecclesiastical foundations. Court rolls are said to exist as early as the reign of John, though the most ancient known are those of Bec (1246) and Letcombe Regis, both ecclesiastical manors (Selden Soc. II. xii.). The earliest court roll of Castle Combe, a lay manor, belongs to 1340.

⁴ In the manor of Cirencester all tenants were on the court roll as early as 1402 (Fuller, p. 317).

which we have evidence later, were probably cases in which they did not enjoy the protection of the customary roll.¹

Notwithstanding the doctrine of jurists, 'Consuetudo est altera lex,'² it may be supposed that, in ages when rights were overborne by the strong hand, holders in villenage received inadequate protection against the oppressions of manorial lords. Under what circumstances villeins by blood contrived to invoke the aid of the law has already been shown. It is true that the original act, whether of direct enfranchisement, of grant implying enfranchisement, or even of admission to customary land, was in the first instance, in legal theory, a concession on the part of the lord.³ But, as has been shown,⁴ once made it could not be withdrawn, except for certain specified defaults by the grantee. If this were so in the case of mere 'nativi,' it might be expected *a fortiori* that tenants in villenage were entitled to legal vindication of their rights. That the laws, as confirmed by William the Conqueror, guaranteed them has already been seen. But, if there were no means of setting the law in motion, it may be conceded that, in effect, customary tenants had 'no legal security.'

This contention is based upon the fact that, in the time of Littleton, the rights of customary tenants were not recognised by the common law. Littleton lays down the common law doctrine in its most extreme application. 'Et coment que ascuns tielx tenants [*i.e.* tenants per copie de court rolle] ont inheritance solonque le custome del manor, uncore ils nont

¹ In the roll of the court of the manor of Castle Combe occurs an entry *sub anno* 1355, Nov. 20. 'Thomas le Walkar dat domino iii. d., pro rotulo curie scrutando pro tenura sua unius tenementi,' &c. Fitzherbert, writing in the early part of the sixteenth century, says: 'In many lordeshyppes there is a customary roole betwene the lorde and his ternautes, and it ought to be indented, one part to remayne in the lordes kepyng, the other parte with the tenants, and dyuers trewe copies to be made of the same, that the rentes and customes ronne nat out of remembraunce' (*Surueynge*, ch. xiii. p. 31). This certainly suggests that in Fitzherbert's day court rolls were rather the exception than the rule, and accounts for the numerous disputes, down to a much later date, as to uncertain fines, &c.

² *Per Cur.* in Brown's case (Coke, *Rep.* ii. 319).

³ *Supra*, p. 196.

⁴ *Supra*, p. 220, n. 1.

estate forsque a volunt le seignior, solonque le course del common ley.¹ This doctrine certainly appears to conflict with that involved in the laws of William the Conqueror. It probably originates in a logical extension of the feudal principle that the lord was the person to whom the State looked as responsible for the services due from the land.² In the thirteenth century Littleton's doctrine appears not yet to have been evolved. At that time the justices in eyre certainly conceived themselves empowered to take note of and to secure what may be called the estate or interest³ of the customary tenant. In 1224 a case was heard before the king's justices in the county of Rutland in which plaintiff claimed possession of two-thirds of a bovat upon an assise of novel disseisin. The defence was that the plaintiff was 'uillanus et terra illa est uillenagium.' A list of villein services was put in, as due from the plaintiff, which the plaintiff alleged had been commuted for a money payment. The jury found for the defendant. 'Et ideo consideratum est quod Willelmus [the plaintiff] conuictus est de uillenagio, et si facere uoluerit predictas consuetudines, teneat illam bouatam terre per easdem consuetudines; sin autem, faciat Bartolomeus [the defendant] de terra et de ipso Willelmo uoluntatem suam ut de uillano suo: et ei liberatur.'⁴ At a later date it might have been expected, had Littleton's doctrine been strictly acted upon, that the judges would have contented themselves with nonsuited the plaintiff, since the assise of novel disseisin belonged to the owner of a freehold tenure.⁵ They preferred, however, to insist on their jurisdiction, and to entertain the case as one of covenant, which it was not optional for the lord to break. And this action of covenant they treated as possessory, thereby recognising the interest of the villein in

¹ *Tenures*, § 77.

² Preface to Selden Soc. II. xl. xli.

³ *Supra*, p. 218, n. 5.

⁴ Bracton's *Note Book*, ii. 916, iii. 1103.

⁵ And therefore could not be brought against his lord by a villein. But a villein could bring it against another person. Cf. Hengham, Summa VIII. 'Villanus non quoad dominum sed quoad extraneos pro libero habetur.'

his holding, though not his tenure.¹ Conversely, the king's justices entertained actions by lords against their villeins for services due, thereby recognising the possible existence of a defence.²

What, then, is the history of the change in the doctrine of the common lawyers and in the practice of the Common Law courts between the thirteenth century and the time of Littleton? During those two hundred years two alterations established themselves. The Common Law courts have refused to entertain possessory actions by tenants in villenage against lords, on the grounds set forth by Littleton, who, in his remarks upon the famous action of trespass heard in 1467, to which attention will presently be directed,³ entirely ignores the possessory action upon covenant. The Common Law courts may further be inferred from the same case, though not with certainty, to have declined to recognise, down to the time of the judgment then given by Chief Justice Danby, the interests of such tenants in a petitory action against their lords. The language of '*Le Myrroure*,' '*Abusion est que le brief de ne injuste vexes va issint en decline*,' a writ stated by it to have originally belonged to villeins, points to the date at which this change set in as the end of the thirteenth century.⁴

It is not possible to suggest the causes of this change without great diffidence. The early history of manors is at present too obscure for any confident statement upon the subject. So much as this is plain: that after 1467, at any

¹ This point is so important that I subjoin Bracton's account of the action. '*Est etiam villenagium non ita purum sive concedatur libero homini vel villano ex conventionem tenendum pro certis servitiis et consuetudinibus nominatis et expressis, quamvis servitia et consuetudines sunt villanae. Et unde si liber ejectus fuerit, vel villanus manumissus vel alienatus, recuperare non poterunt ut liberum tenementum cum sit villenagium, et cadit assisa, vertitur tamen in juratam ad inquirendum de conventionem, propter voluntatem dimittentis et consensum, quia si querentes in tali casu recuperaverint villenagium, non erit propter hoc domino injuriatum propter ipsius voluntatem et consensum, et contra voluntatem suam jura ei non subveniunt*' &c. (Bract. IV. xxviii. f. 208).

² Bracton's *Note Book*, III. 1715. Heard in Hil. T. 1226.

³ *Infra*, pp. 240-243.

⁴ *Le Myrroure*, pp. 171, 305.

rate, copyholders possessed two remedies for eviction in place of that anciently afforded by the Common Law courts. They could, in the first instance, proceed by petition in the court of the lord, with an appeal to Chancery,¹ or they could have an action of trespass in the Common Pleas.

But at what period did the jurisdiction of the customary courts over claims of tenants in villenage to land assert itself to the exclusion of the Common Law courts? It has already been mentioned² that the earliest court rolls known are of the date of 1246. The learned editor of the *Select Pleas in Manorial Courts* appears disposed to assign to this century the arrogation by the lords of manors of the right to have questions decided in their courts by inquest.³ The example, we know, had already been set upon the royal manors, but we are expressly told that the custom did not obtain on manors of ancient demesne, which suggests that it belonged to a date later than that at which the custom of ancient demesne became stereotyped.⁴ On the ground, apparently, that the plaintiff was bound by the custom, we find an assise involving title to land dismissed to the lord's court.⁵ If such a custom could be held to exclude the jurisdiction of the king's justices, it is not surprising if the lords of manors, in this as in other matters emulating the king's example, set up such customs in their own courts. They were, perhaps, helped by the judges themselves.⁶ And this will explain

¹ 'Tenant a volente par copy de Court roll auer sub pena vers son seignior s'il luy oust, par Kyrbb [qu. Kyrkeby] & Pole en sub pena en la Chauncerie.' (*Y. B.* 32 Hen. VI. 3.)

² *Supra*, p. 224, n. 3.

³ Mr. F. W. Maitland, *Selden Soc.* II. lxvi.

⁴ *Placit. Civil.* Surrey, M.T. 1202. 'Et dicit [Prior] quod totum manerium illud fuit dominium domini Regis Henrici et omnes qui terras tenent in eo fuerunt villani domini Regis et sunt modo villani Prioris sicut prius fuerunt villani domini Regis et dicit quod nunquam solebat fieri assisa vel jurata de terris ejusdem manerii, sicut nec dominicis domini Regis sed secundum consuetudinem maneriorum domini Regis solebat fieri inter villanos jurata in manerio ipso et non coram justiciariis,' &c. (*Selden Soc.* III. 123.) I cannot assign any other meaning to this than that of the text.

⁵ *Selden Soc.* II. *l.c.*

⁶ Matthew Paris, *Chron. Maj.* V. 545, says of William of York, formerly one of the royal judges, that he 'quandam pro lege consuetudinem pessimam in regno

the constant insistence upon suit of court in the thirteenth century, made a condition of feoffment to freeholders,¹ but imposed absolutely upon tenants in villenage. In these courts, as we shall see reason to conclude,² the customary tenants enjoyed very favourable prospects of justice, even adversely to the lord's interests. It is quite intelligible, therefore, that the old jurisdiction of the king's justices should first have fallen into abeyance and then passed out of memory, and that the jurisdiction once exercised by them should have been revived and monopolised by the Court of Chancery when circumstances made such intervention urgent.³ But, even supposing that customary tenants could obtain no effective remedy in customary courts, and that the common law doctrine had been always as inflexible as in its statement by Littleton, to infer that in this large class of cases persons suffering wrong were left without redress, is as though, before the recent fusion of law and equity, one were to conclude that because trustees are in law the owners of the property they administer, *cestuis que trust* were left destitute of protection.⁴

It is stated by Coke⁵ that in the customary court of a manor, 'and that doth concerne copiholders,' the lord, or his steward, is the judge; whereas in the court baron, or freeholders' court, the freeholders or suitors of the court are themselves the judges. If this were so, before either the King's Courts of Common Law had revived, or Chancery had begun interference for the protection of tenants in villenage against their lords, it may well be doubted whether the

suscitavit; ut scilicet pro quantulocumque tenemento faciat tenens et subjectus suo superiori, a quo videlicet tenet, in magnum subditorum dampnum et detrimentum et superiorum parvum vel nullum emolumentum, sequelam curie etiam invitus.' This probably referred to freeholders, but if the lords' courts became seized of all freeholders' disputes, *a fortiori* they would decide those of villeins.

¹ *Infra*, pp. 233, 234.

² P. 230.

³ Pp. 236-238. As to the circumstances which led to this, see *infra*, p. 236.

⁴ 'I find that Periam, Chief Baron, in the argument of Chudleigh's case, compareth them (*cestuis que use*) to copyholders,' &c. (Bacon, Reading on the Statute of Uses, *Works*, VII. 408.)

⁵ On Littleton, § 73. Cp. Compl. Copyh. § 44. Coke probably takes this from M.T. 21 Hen. VII., Keilwey's *Rep.* p. 71.

tenants had any efficient protection at all. But from the manor rolls hitherto published, it appears that Coke could only have been speaking of the practice of his own day. The court (*curia*) appears in them, not as a synonym for the steward or judge, but of the whole body of suitors (*sectatores*) attending its sittings. In the court-rolls of the manor of the abbey of Bec such records occur as the following: 'Dicit plena curia';¹ 'Et tota curia venit et dicit';² 'Et super hoc tota curia petit respectum de iudicio reddendo usque ad proximam curiam,'³ in which the distinction between the court as judge and the steward as presiding officer is strongly brought out. Unless the 'court' was present in adequate numbers, cases could not be heard, nor judgment pronounced. 'Et dictus Willelmus petit iudicium etc. Et ponitur in respectum usque proximam curiam pro defectu sectatorum.'⁴

Upon the analogy of the sheriffs' courts,⁵ the function of the 'suitors' was 'iudicia facere,' by which is to be understood all that the term implies, to find the matter for and the form of the judgments to be given. 'Curia domini debet facere iudicium et non dominus.'⁶ Accordingly we find the jurors determining questions of right, such as are reserved in modern courts for judges. 'Symon Patrik dat domino xij d. pro consideracione curie habenda de j cotagio quod relicta Galfridi Dogers sibi deforciat. Symon de Strode plegius. Et dicunt dicti jurati quod dictus Symon melius jus habet.'⁷ Nor do they confine themselves to specific cases, but lay

¹ Selden Soc. II. p. 24.

² *Ibid.* p. 35.

³ *Ibid.* p. 111.

⁴ *Ibid.* p. 83. So 'pro tenuitate curie ponitur in respectum usque ad proximam curiam,' p. 67.

⁵ Mr. Maitland's preface to *supra cit.* p. lxx. This preface is a masterly sketch of the constitution of customary courts drawn from the ancient documents edited by the learned writer.

⁶ *Munimenta Gildhallae*, I. 66. Maitland, Selden Soc. II. lxx. 'Nowhere do we find any clear assertion that the lord's steward is judge.' Nelson, who is puzzled by the idea that suitors can be judges, mentions that 'there is a writ in the Register, directed by the King "sectatoribus Curie Baronis" &c. "Vobis mandamus" &c., "ad iudicium reddendum."' *Lex Maneriorum*, W. Nelson, 1733, p. 70.

⁷ Selden Soc. II. 26.

down general principles of law.¹ This was the ancient 'judicium parium.' All the above are records of the thirteenth century. At a later date we find the ancient 'full court' degraded to a mere jury for presentments, with the steward as judge.²

What was the composition of this court, the customary court, which must be distinguished from the court baron, the court of the freeholders? Coke says, in his commentary on the seventy-third section of Littleton: 'As there can be no court baron without freeholders, so there cannot be this kind of customary court without copiholders or customary holders. And as there may be a court baron of freeholders only without copiholders, and then is the steward the register, so there may be a customary court of copiholders only without freeholders.' This statement of law is explicit enough. The word 'may' indicates that a customary court may number freeholders among the suitors, but that its constituents were chiefly copyholders. Mr. Maitland, however, in discussing this question, derives from Coke's statement that without a court of freehold tenants consisting of a quorum of two there is no manor,³ a conclusion that freeholders were probably at one time essential to the due constitution of a customary court.

There are not a few indications favourable to this inference. The word 'homage,' habitually used of the suitors of customary courts,⁴ rather suggests that there was a time when customary courts had no existence, but only those who paid homage, the freeholders, exercised the right of manorial tenants. According to the jurists, the essence of a manor, viewed

¹ *Ibid.* 24. 'Dicit plena curia quod si qua mulier fuerit de dominico plene egressa et fuerit maritata lib ro homini poterit tunc bene revertere et recuperare dicta mulier jus et clamium si quod habet in aliqua terra; si autem copulata fuerit servo, tunc servo vivente non poterit, set post mortem bene potest.'

² *Ibid.* Pref. lxxii. In the manor rolls of Castle Combe, dating from about the middle of the fourteenth century, the jurors have already sunk to this position.

³ Coke, 4 *Rep.* 26 b. 6 *Rep.* 64 a. Cp. the Elizabethan commentator on Littleton, edited by Cary, London, 1829, p. 165. 'If all the freeholds of the manor but one do escheat, or if the lord do purchase them, now it has become no manor; for there cannot be a court-baron without suitors & not before one suitor only.'

⁴ *Supra*, p. 198, n. 4; *infra*, p. 251.

historically, consisted not in the customary tenants, but in the freeholders. The anonymous Elizabethan commentator on Littleton,¹ following Fulbecke and Perkins, describes the origin of a manor. 'The beginning of a manor was when the king did give 1,000 acres of land, or greater or lesser part of land, unto one of his subjects and to his heirs, and the donee doth build a mansion house upon one parcel of the same land, and of twenty acres parcel of it which remaineth, or of greater or lesser part of it, before the statute, did enfeof a stranger to hold of him and of his heirs . . . and doth enfeof others of other parcels,' &c. That this conception of a manor, entirely excluding the customary tenants, was not the invention of a late age is shown by the phrase 'villeins regardant to a manor,' of which, therefore, they formed *de jure* no part themselves.² At a later date the 'manorhood' included copyholders but excluded *nativi*.³ But the old conception remained, and two freeholders were necessary to form a quorum for the manorial court proper, the court of the freeholders, or court baron.

The number of freeholders upon a manor was naturally more limited than that of customary tenants. Mr. Maitland states that 'the older the evidence, the fewer the freeholders.'⁴ This we know to be true of the period between Domesday and the thirteenth century.⁵ On some manors there were no

¹ He must have written after 1588, for the resolutions of the judges in *Melnich v. Luter*, heard in that year (Coke, *Rep.* II. 341), are incorporated in his text.

² A parallel may be found in the case of colleges. These corporations consist of the head, the fellows and scholars; the last two anciently comprised under the title 'scholares,' distinguished into 'Socii-scholares' and 'scholares' proper. The commoners, who generally form the numerical majority, are in law no component part of a college, but mere tenants *ad voluntatem*.

³ *Supra*, p. 190.

⁴ Selden *Soc.* II. Pref. lxix.

⁵ In the case of the manor of Belchamp, Essex, there were no freeholders in 1086. 'A hundred years later there were eighteen *libere tenentes* . . . in the next fifty years the *libere tenentes* had increased from eighteen to thirty-four, or nearly double.' (*Domesday of St. Paul's*, xxii.) Upon eighteen manors belonging to the Priory of Worcester, there was in Domesday but one freeman; upon thirteen of these manors in 1240 there were fifty-five freemen. (*Reg. of Worc. Priory*, pp. xiii., xvii.)

freeholders at all,¹ although it does not necessarily follow that no court baron sat, whether separately or as a committee of the manorial court, since we know that 'foreign' suitors were sometimes imported. Now, while the freeholders increased, their judiciary powers² decayed. And the cause of the decay was the assertion of jurisdiction by the Courts of Common Law in all cases affecting freeholds. This took place in the time of Henry II. under the Assize of Novel Disseisin and the Breve de Recto. Their desuetude must have been furthered by the Statute of Gloucester,³ which was interpreted as intending that no action for more than forty shillings should be brought in a local court.⁴ These measures robbed the freeholders of their business, and the merger of these courts, where they existed, may be said to have been due, in the early period⁵ to there being few freeholders, in the later to there being little business. But suit of court was stipulated

¹ See last note. Also at Fepsinton, in Worcestershire, in 1240, there were no freeholders. (*Reg. of Worc. Priory*, p. xvii.)

² I incline to the view suggested by Mr. Maitland (*Selden Soc.* II. xix), that the court named in later days 'court-baron' was the 'libera curia.' The statement 'chescun manoir de common droit ad un court baron incident al manoir' (*T. T.* 34 H. 6, f. 49, pl. 15) must have some meaning, and the terms 'sockemane-mot,' 'curia villanorum' point to a distinction. But this distinction may very well have been more a matter of law than of practice. The chief business of a manor was the determination and enforcement of the services, for which, of course, the customary tenants were competent, but which also involved the freeholders. It may very well be that these, forming the primitive court, called in the villeins to find facts as to services done or due. I notice that this appears to be the view taken by Mr. G. T. Clark in his paper on the Manor and Soke of Rothley. *Archæol.* xlvii. p. 92.

³ 6 Ed. I. c. 8.

⁴ *Selden Soc.* II. liv, lvii. Mr. Maitland attributes to the judges the authorship of the Statute of Gloucester, on the authority of *Y. B.* 33 Ed. I. p. 83. This is apparently an error, for the saying of Hengham, 'nous les feimes,' refers to the Statutes of Westminster the second (13 Ed. I. c. 2) and of Marlbridge (52 Hen. III. c. 9).

⁵ Before 1295 the Abbot of Fécamp used to hold one court at Steyning for both freeholders and villeins. After that time he divided it into two. *Rot. Hund.* II. 203. The fact that the abbot formerly held one court for both classes was perhaps due to his having no freeholders. None are mentioned in Domesday, 17 a 2, Ellis' ed. I. 17. The opposition to serving at villeins' courts sometimes came from the freeholders. (*Selden Soc.* II. 94.) The 'tota curia villanorum' is mentioned in the manor of Worthing, Sussex, temp. Ed. I. (*Selden Soc.* II. lxx.)

for by lords of manors irrespective of the amount of business.¹ A number of instances are cited by Mr. Maitland from the Gloucester Cartulary, by which the charters granted to feoffees are on condition of their performance of suit of court.² But, by the Statute of Marlbridge of 1267,³ no person enfeoffed with or without charter need do suit except where it had been done before 1238, saving where suit had been expressly reserved by the terms of the charter.

Since freeholders by charter with the condition expressed were still bound to do suit at the court of the lord, and since the principal business of the court was concerned with the affairs of the customary tenants, it is natural that the freeholders present should assist in the transaction of it. In this way the court baron and the court customary came, as a rule, to be regarded as one, so that Roger North, in the time of Charles II., speaks of 'the copyhold court, which is called the court baron.'⁴ In the history of the Manor of Castle Combe we read of a court of knights' fees⁵ being held at intervals, in 1356, 1374, and 1393.⁶ No court so distinguished appears to have been held after the last date. But we have positive evidence from Kitchyn, whose first publication was printed in 1581. Kitchyn gives, under the heading 'modus tenendi court-baron,' 'vn exhortation al enquest,' beginning, 'Vous bone homes que soyez jures.' There are three causes, the seneschal is supposed to say, of their assembling. Of these the second is, 'pour ceo que ascuns de vous tient terres del seigniors de cest manor, ascunz come freeholders, ascuns come copiholders, & per reason de ascun de vostre tenures, vous doies faire suit al court baron de vostre seignior.'⁷ Here are the freeholders assembled side by side with the copyholders. It is to be supposed that Kitchyn's form was

¹ 'The Abbot [of Ramsey] seems to have been at great and often fruitless pains to get suitors to attend, but when the court met it had next to no business to do.' (Selden Soc. II. 1.)

² *Ibid.*

³ 52 Hen. III. c. 9.

⁴ *Autobiography*, p. 108. Selden Soc. II. lxiv, n. 2.

⁵ 'Knighten-Court is a Court-Baron or Honor-Court' (Cowel).

⁶ Pp. 161, 163, 165.

⁷ *Le Courte Leete*, &c. f. 78, ed. 1585.

that which he found in use in his own day. It was probably, therefore, of some antiquity. And it is significant that Littleton,¹ speaking of the alienation of copyholds, uses the suggestive words, 'il convient solonque ascun custome de surrender les tenements en *ascun* court,' which Coke renders simply 'in court.' The assertion of Kitchyn, questioned by Fulbecke,² now becomes intelligible, 'that in some manors there be no tenants but copiholders, and yet in such manors there be court barons.'³ When the two became merged into one, it was a mere accident whether the court superior in dignity, or that important in respect of its business, should confer the name.

It is now evident how greatly the truth of fact during the early history of copyhold tenure differs from the description of the constitution of the court of the lord as given in Coke. In the case of a people so tenacious of their rights and so resolute to maintain them against oppression, it is not to be supposed that the lords were able to usurp the functions which usage reserved to the tenants themselves. The questions upon which security of tenure practically depended, such as concerned the forfeitures to be incurred, the fines to be paid on admittance, the conditions upon which a tenancy was held; these were interpreted neither by the lord nor yet by his steward,⁴ but by a court of men occupying upon like terms to those primarily concerned. It is not matter for wonder that the position of copyholders gained strength from generation to generation, in a way for which writers have been at a loss to account, even without the intervention of the king's courts in their favour. In this way the principle grew up, expressed by Coke in the language appropriate to the usage of his own age, that in the customary court equitable considerations

¹ *Tenures*, § 74.

² *Parallele*, London, 1601, p. 18.

³ Kitchyn, sub 'Manerium,' f. 4. Mr. Maitland, who in his introduction to the manor of Brightwaltham abandons his disposition to regard these courts as in practice separate, gives an example of the par-on, a freeholder, waging his law in a court full of villeins. (Selden Soc. II. 164.)

⁴ Who ought to be, says Fleta, one 'qui in legibus consueudinibusque provinciae & officio senescalacie se cognoscat' (II. 72, 1).

should be allowed their weight.¹ The lord of the manor 'ought to relieve in such case according to conscience.'²

It has been seen that the Crown led the way in respect for the claims of its tenants. Whether this disposition took its rise in the circumstances under which Ancient Demesne originally came into existence, or whether it was part of a traditional popular policy, does not concern us now. But it was extended from the manors in ancient demesne to manors acquired by the Crown. In 1267 a dispute occurred between the villeins on the estate of Wytecok, Leicestershire, which had been taken in exchange, and Peter de Nevill, to whom the King had lately committed it, apparently as administrator for the Crown. The verdict of the jury was adverse to the claim set up by the villeins that they were socmen, but an inhibition was issued, presumably from Chancery, against the commission of any act of oppression upon them.³ In the troubled times of Richard II., when an unsuccessful insurrection was the consequence of the friction engendered by villein service, we find the Court of Chancery interfering between the lords and their tenants.⁴ In 1378, the Commons, who, it must be remembered, were elected by freeholders only, petitioned the king against the issue of writs from Chancery compelling them 'a respondre a son frank tenement, ou choses appertenantz a ycelle'; in reply to which the king insisted upon his jurisdiction in cases of oppression

¹ 'He [the lord] is a chancellor in his court, & may redress matters in conscience upon a Bill exhibited, where the Common Law will afford no remedy in the same kind.' *Compl. Copyh.* p. 120. ² Nelson, *Lex Maner.* p. 71.

³ An 'inhibition' is defined by Blount as 'most commonly' a writ issuing out of a higher court Christian to an inferior, upon an appeal. The proceeding in this case was rather in the nature of a prohibition or injunction, which was originally distinguished by the word 'prohibeo.' Fitzh., *Nat. Brev.* f. 39, treats prohibitions and inhibitions together. The Inhibitio in this case ran: 'ne in predictis villanis dum fuerint in custodia sua faciat vastum exilium aut destructionem.' The earliest writ of prohibition known to Spence, temp. Hen. I., was witnessed by the Chancellor only. *Ct. of Chanc.* I. 108 (a).

⁴ The free tenants were protected by the Common Law Writ, founded on Magna Charta, of 'Ne injuste vexes.' See Fitzh., *Nat. Brev.* f. 10, but *Le Myrrour*, pp. 171, 305, speaks of this writ as a right of the villeins then already (temp. Ed. I.) ceasing to be effective 'per les negligence des Royes.' *Supra*, p. 227.

in which 'le commune loy ne purra avoir duement son cours,' and where the acts done were 'en oppression du poeple.'¹ In 1389 it was laid down that a copyholder having a fee simple interest might recover by plaint in Chancery, in the nature of an assise of mort d'ancestor, when his lord refused him admission.² This led to a fresh petition, 'que le Chancellor, ne le conseil du Roy, apres le Parlement finy facent null ordinance encontre la commune ley ne les aunciens custumes de la terre,' to which they received an evasive reply. In 1393 the Commons abandoned their protest against the encroachments of Chancery jurisdiction, and complained that the writs of subpœna were issued by the Chancellor without requirement of surety for costs and damages.³ They wound up their petition with the request, 'que null frank tenement, n'autre action quelconque que poet estre trie par la commune ley, ne soit n'amesne en la Chancellerie sus dite n'aillours mes devaunt les Justices du Roi.'⁴ Nevertheless, subpœna became the recognised process for the protection even of tenants by the verge, in the event of their having failed to obtain justice in the lord's court.⁵ Complaints against it were

¹ *Rot. Parl.* iii. 44. The language, as will be seen, is vague; but it is difficult to see to what it refers, except to excessive exactions by manorial lords upon their tenants.

² Coke, *Rep.* Pt. IV. 21, *b.*

³ See 17 R. II. c. 6 and 15 Hen. VI. c. 4. The Elizabethan commentator upon Littleton, edited by Cary, p. 185, cites these statutes under 'tenant by copy,' which is evidence of repute as to their relevance.

⁴ *Rot. Parl.* iii. 323. None of these petitions refers to questions between tenants in villenage and manorial lords *eo nomine*. Spence speaks of them as evoked by the interference of Chancery 'in cases of violent dispossession of land.' Seeing that we know the writ of subpœna to have been at a later date the weapon employed by the Court for the protection of these tenants, while freeholders and tenants in ancient demesne had the protection of the Common Law Courts, we may infer without rashness that these were cases of eviction by lords of customary tenants. The suggestion that these cases were triable by Common Law raises the suspicion that Chancery had invaded the Common Law Courts' jurisdiction, or it had extended a protection which the Common Law Courts had ceased to afford. See *supra*, p. 227.

⁵ In *Y.B., H. T.* 14 Hen. IV. 342, cited in Fitzh. *Abr.* sub 'Faux Jugement': 'Et dit que la terre fuit tenuz par verge & le franc tenement en le seigneur, en quel cas il doit auer sue par bill & nemie par breve.' I incline to interpret this as meaning by Bill in Chancery, and not by the Common Law Writ of Faux Jugement, resort to which also implies previous action in the lord's court. The Elizabethan

renewed soon after the accession of Henry V.¹ In 1437 the concession was made which had been refused by Richard II.,² and surety was required from those suing out writs of subpœna.³ But, by way of compensation, the Common Law Courts in the reign of Edward IV. began to take cognisance of the beneficial interest of the tenant, upon which was based the issue of subpœna in cases of eviction of a copyhold tenant by his lord.⁴ And the Court of Chancery was specially encouraged to proceed with the assertion of its jurisdiction 'to determine accordyng to equite and conscience'⁵ by the King himself.⁶

We now come to the cases decided in the reign of Edward IV., which are cited in the fourth edition of Littleton's

commentator has, however, 'his [the copyholder's] only remedy is to sue by bill, that is to say, by plaint in the lord's court, 7 Ed. IV. 19, or by subpoena in the Chancery.' The proper word for 'plaint' in the lord's court was 'petition.' See *infra*, pp. 240, 242. But the Elizabethan lawyers apply the word 'Bill.' *Supra*, 236, n. 1, *infra*, 243, n. 1.

¹ In 1415. *Rot. Parl.* iv. 84.

² The Act 17 R. II. c. 6 only empowered the Chancellor to award damages.

³ 15 Hen. VI. c. 4.

⁴ In Fitzh. *Abr.*, tit. 'Sub pena,' occurs the following passage. 'Tenant a volunte per copy de court roll aver sub pena vers son segnior s'il luy oust per Kyrk. & Pole en sub pena en la Chauncerie,' an. 32 Hen. VI. This must have been Thomas Kyrkeby, M.R. Pole was a justice of the K.B. They appear to have sat together in Chancery on this occasion. See below, note 8.

⁵ 'And it seemed, that Conscience whereby his Lordship is to judge, is not to be understood *simpliciter*, and to be *simplex conscientia*, but *regulata conscientia*, and therein to follow order and course accustomed, viz. to take order in such cases as by the course of the Court hath been ordered before-time.' *The Antiquity and Original of the Court of Chancery*, by Serjeant Snagg, London, 1654, p. 65.

⁶ 'In the seventh of Edward IV., when Robert Kirkham, Master of the Rolls, had the Great Seal delivered to him by the King, the following memorandum was entered on the Close Roll of that year: "And over this, the King willed and commanded there and thanne that all manere of maters, to be examyned and discussed in the Court of Chancery, should be directed and determined accordyng to Equite and Conscience and to the old cours and laudable custome of the same court, so that if in any such maters, any difficultie or question of lawe happen to ryse, that he herein take th' advis and counsel of the Kynges justices, so that right and justice may be duely ministred to every man.' (Introd. to *Close Rolls*, p. xxxi.) This last clause may account for the presence of Pole, J. in Chancery. See *supra*, n. 4. Cases in Chancery were sometimes referred upon points of law to the K.B., which returned a certificate. See Coke upon Littleton, § 74.

Tenures, and which are alleged to have first granted, though only for that reign, rights to copyholders against their lords. The text of Littleton runs as follows: 'Et coment que ascun tiels tenants [*i.e.* copyholders] ont inheritance solonque le custome del manor, uncore ils nont estate forsque a volunt le seignior, solonque le course del common ley. Car il est dit, si le seignior eux ousta, ilz nont auter remede forsque de suer a lour seigniors par peticion, car sils aueront auter remede, ilz ne serront dits tenants a volunt le seignior, solonque le custome del manor, mes le seignior ne poit¹ enfreinder le custome que est reasonable en tiels cases.'² After this follow, between marks indicating that they are additions to the original text, the quotations from the judgments of the Chief Justices Brian and Danby.³

The question which Littleton, a common lawyer, is discussing, is not that of the effective rights of the copyholder against the lord, but simply his rights according to the doctrine of the Common Law. Coke, in his commentary, cites the instances which he supposes Littleton to have had in his mind. They are taken from Fitzherbert's *Abridgment*, and are three in number. The first is the case already mentioned, in which it is put by counsel in argument that the lord can evict at pleasure his villein from his demesne lands.⁴ In the

¹ Pynson's edition of 1516, which is the earliest in the Bodleian Library, here reads 'voet.' The text is taken from the edition of 1536. Coke evidently read 'poit' or 'poet'; but the contemporary anonymous commentator edited by Cary remarks, 'but in some print the words are "ne poet enfreinder," and according to this letter the opinion of Danby, Chief Justice, was in the case before mentioned; for he said,' &c. (p. 187). As I understand the legal position of the lord, 'voet' and 'poet' amount to the same thing.

² *Tenures*, § 77.

³ It must not be inferred from the fact that Littleton probably stopped short here that he was unacquainted with or dissented from the opinions laid down by Danby, C.J.; for in § 82 he expressly says of the heir of a tenant by the custom 'qe le custome de le maner en ascun case luy puit ayder de barrer son seigneur en accion de trespas, &c.'; upon which Coke remarks, 'Hereby it appeareth that by the opinion of Littleton the lord against the custome of the manor cannot oust the copiholder.' This opinion of Littleton's must have been founded, if upon either of the two judgments of Danby & Brian, C.JJ., upon that of Danby, C.J., delivered in M. T. 7 Ed. IV. 19. See *infra*, p. 240, n. 2.

⁴ Y. B., E. T. 13 Ed. III. case (27). *Supra*, p. 200, n. 3.

second, which was an action in the Common Pleas upon a writ of false judgment given in a manorial court, it was laid down by Rykyll, J., Thyrne and Cherlton, JJ., concurring, that there was no other remedy in this case than to sue to the lord, who has the freehold, by petition.¹ The third is the case 7 Ed. IV. (19) before Danby, C.J. The reference to this last and to another case temp. Edward IV., heard before Brian, C.J., first added by an early commentator² to the edition of 1530, is in these words: 'Mes Brian chiefe justice dit, que son opinion ad tous foits este, & unque serra, si tiel tenant per le custome païant ses services soit eiection per le seignior, que il auera action de trespas vers luy. H. 21 Ed. IV. Et issint fuit l'opinion de Danby chiefe justice, M. 7 Ed. IV. Car il dit que le tenant per le custome est sibien enherité de auer son terre solonque le custome, come cestuy que ad franktenement al common ley.'

From the original report of the earlier of these cases, that tried in 1467,³ it appears that the action was an action of trespass for seizing a heriot. The question was raised: 'Si le seigneur entre & ouste son tenant a volonte secundum consuetudinem manerii sil ad ascun remediē envers le seigneur?' To this Danby, C.J., replies in the words quoted in Littleton, and adds: '& il [the tenant] fait fin quant il entre';⁴ the acceptance by the lord of the fine being evidently interpreted by the Chief Justice as implying the reciprocal concession of security of tenure. Littleton then remarks: 'Jeo veia un foitz vn sub pena port per tiel enuers son seigneur, et fuit tenus per toutz les justices que il ne recouera rien per cel, car fuit tenu que lentré le seigneur fuit congeable sur luy entant que il est tenant a voluté &c. Et sir breve de faux jugement ne breve de droit⁵ il nauera mie car nul franktenement

¹ Fitzh. *Abr.* tit. 'Faux Jugement,' 7. H. 13, R. ii. As to the remedy by petition, see *infra*, p. 242.

² It could not have been written by Littleton, who died Aug. 21, 21 Ed. IV., *i.e.* in 1481, whereas the judgment was pronounced in Hilary Term, 21 Ed. IV., *i.e.* in January or February, 1482; Edward IV.'s years dating from March 4, and Hilary Term then extending only from January 23 to February 12 (Cowel).

³ M. T. 7 Ed. IV. 19.

⁴ Cp. *infra*, p. 246.

⁵ *Infra*, p. 242, n. 1.

est en luy eins le franktenement est en le seigneur.' In other words, he shall not have, Littleton contends, a possessory action at Common Law. To this Danby rejoins: 'Le jugement en le subpoena fuit a ma entent. Il fuit dauere recouere de franktenement car il ne puit auer nul autre breve pur recouere le franktenement &c. mes il auera bon breve de trespass enuers le seigniour & il ne puit iustifier son entré &c.' This passage, in which the judges appear to contradict one another as to the subpoena, is not easy to understand. According to Littleton, J., the Common Law judges refused to entertain a possessory action founded upon a subpoena issued by Chancery on the ground of the Common Law doctrine that the freehold tenure was in the defendant, the lord, and not, as alleged, in the plaintiff, the copyholder. The Court of Chancery, however, according to Danby, conceived itself concerned with the equitable owner of the freehold—in other words, with him who had the freehold interest,¹ and gave him relief by the issue of the subpoena.² This confirms what has already been said as to the protection extended by Chancery to the customary tenant. It was on the ground that he had the freehold interest and could sustain damages in respect thereof that Danby, C.J., expressed himself ready to grant the copyholder an action in this case of trespass at Common Law. He did not dissent from Littleton's dictum that no possessory action lay at Common Law. But this recognition by the Court of Common Pleas of the principle established by Chancery, and the effective remedy which followed,³ made the judgment a landmark in legal history.

¹ 'A tenant in fee-simple, fee-tail, or for life is said to have a freehold interest whatever his tenure may be; but none except he who holds, or did hold by knight's service, in free socage or in frank almoign, can be said to have a freehold tenure.' Blackstone, *Considerations on Copyholders*, pp. 222, 3. *Supra*, p. 218, n. 5. See also Tomlins' translation of the above report in his edition of Littleton's *Tenures*, § 77.

² This does not quite explain Danby's phrase 'Le jugement fuit a ma entent,' which seems to correct Littleton as to the judgment given by the Common Law judges, but which must, I think, refer to the judgment of the Court of Chancery.

³ Procedure at Common Law before Judges of Assize was far less expensive than procedure in Chancery at London. The expense involved in obedience to

The concluding words of Chief Justice Danby's judgment, though in the nature of an obiter dictum, convey to the mind the practical significance of Littleton's declaration that the copyholder's sole remedy against eviction was to sue to his lord by petition. 'Et sir si le Roy entre en ma terre jeo naura remedie mes mon petition &c., *mes e roy est tenu de droit de moy restorer; issint est le seigneur tenu de restorer son tenant a volonte secundum consuetudinem*' &c. It was the sole remedy by which to regain possession of the land, but it was none the less effective, even against the king himself.¹

In this famous judgment, then, the remedies of the tenant against his lord in the case of eviction are fully laid down. He is to have an action of trespass. Now trespass was an action belonging to the jurisdiction of the Common Law Courts.² It was an action for damages, and the remedy afforded by it was damages only.³ This is why the Common Law Courts, upon the doctrine that the copyholder had no rights in law against his lord, had held that trespass could not lie, since there was no injury of which he could complain. For this reason Chancery had interfered, in order to restore possession, as Chief Justice Danby expressly mentions, to the evicted copyholders, and that even in the case of tenants by the verge.⁴ That course the Court of Common Pleas, in the emphatic words of Littleton, J., declined to follow. It simply

Chancery writs was one of the special grievances attending their issue. In the session of 1393-4 the complaint of the Commons laid emphasis upon this. 'Item prie la Commune que par la ou plousours liges du Roialme, par nient vraies suggestions faitz si bien a Conseil nostre seigneur le Roi come en la Chancellerie nostre seigneur le Roi, sont envoie de comparer devant le dit Conseil, ou en la Chancellerie, sur certeine peyne, a certain jour, per ont les loiax liges du Roialme sont torcenouement travaillez & vexez, a grant damage de voz ditz liges, & plus an'entissement de leur estat sans recoverir ent avoir de leur damages & cous'ages' &c. *Rot. Parl.* iii. 323.

¹ Tenants of ancient demesne with a freehold estate could have a writ of Faux Jugement or of Droit Clos (*de recto clauso*). See Fitzh. *Nat. Brev.* sub vv. Also Fuller, p. 304.

² 13 Ed. I., Stat. of Westminster 2, c. 30.

³ The form of the declaration, after recital of the facts, was 'ad damnum ipsius D. quingentarum marcarum, et contra pacem &c.' Reeves, i. 160.

⁴ This I take, though with some doubt, to be the meaning of Hankford, J., in H. 14 Hen. IV. 34, quoted by Fitzh. *Nat. Brev.* 'Faux jugement,' 5. He says, 'Cest mater fuit determine par parlement que toutz les terres que sont

added a second, though a very effective, remedy to the remedy which the dispossessed copyholder already enjoyed.¹ The history of the legal sanctions to the rights of copyholders is summarised by Bacon,² who, as will have been seen, was, like others of his contemporaries, imperfectly acquainted with the early history of the subject. 'They both (the rights of copyholders and Uses) grew to strength and credit by degrees for the copyhold at first had had no remedy at all against the lord,³ but was as a mere tenancy at will; afterwards it grew to have remedy in Chancery, and afterwards against the lords by trespass at the common law.'

We now pass to the consideration of the case, second in order of time, in which the Court of Common Pleas affirmed anew its intention to recognise the interest of the copyhold tenants upon an action for trespass.⁴ This was an action of trespass by the lord for houses and close broken.⁵ The statement of defence was that the two houses and the close in question were customary land, leased to the defendant for term of life, 'par force de quel il fuit seisi &c. come de frank-

tenuz par verge ne serra pledables par brefe einz par byll.' I cannot identify the reference to Parliament. See *supra*, p. 208, n. 2.

¹ The legal remedies of the copyholder are enumerated by the anonymous Elizabethan commentator upon Littleton in his commentary on § 77, as follows: 'Tenants by copy shall not implead or be impleaded for such their tenements by the king's writs (as in the precedent section doth appear); but they must sue by bill in the lord's court of the manor; and if there be false judgment given against the copyholder, he may not have a writ of false judgment upon it at the common law; for then he should be restored to the freehold, whereas he has no freehold (Kitch, 80 b.) and his only remedy is to sue by bill, that is to say, by plaint in the lord's court (7 Ed. IV. 19) or by subpoena in the Chancery.' In connexion with this application of the word 'bill,' the saying of Coke, who also had it in his mind, that the lord 'is a chancellor in his court,' acquires increased significance. *Supra*, p. 236, n. 1.

² Reading on the Statute of Uses, *Works*, vii. 408. So the anonymous commentator on Littleton: 'So we see the common law did respect such copyhold estates to be merely as tenants at will of the lord; but after long custom and continuance of time had fixed such estates, then the common law did take notice of them and of the said custom, reputing them to be more than tenants at will only, scil. to be tenants at will according to the custom' (p. 187).

³ *I.e.* outside the customary court, of the early constitution and effectiveness of which Bacon, like Coke, appears to have been ignorant.

⁴ See *supra*, p. 241.

⁵ 21 Ed. IV., case 56, f. 70. (1482.)

tenement solonque le custome de mesme le manoir.' Here was a plea for that recognition of freehold interest or estate in favour of which Chief Justice Danby had pronounced his judgment.¹ Upon this, Briggis, the counsel for the plaintiff, took the old objection that a copyholder could not allege himself seised of a freehold.² 'Il est contrariant a son estate a dire quil est tenant per copy de court roll & a dire quil est seisie de franktenement.' To this, Brian, C.J., Danby's successor, replied, in effect, that he had alleged a freehold *interest*, not a freehold *tenure*, and that of a freehold interest the Court would take notice.³ Briggis rejoins by denying the existence of such an interest, i.e. at Common Law. 'Si le seigneur voile luy mitter hors il nad remedy qar il proue quil est forsque tenant a volonte.' Then comes the famous retort of Brian, C.J. 'Ce ne fuit vnques mon opinion & come jeo croy unque sera, *car donque tout le copy holde en Engleterre sera defete, par que jeo entend que tout temps que le tenant paia les customes et seruices si le seigneur luy mytt hors de possession il aura accion de trespasse versui luy.*' The Chief Justice then pointed out that the proper course for the plaintiff to have taken was to have proved that the services due had not been rendered, and so have justified his entry on the defendant.⁴

It will be noted that the language used by Chief Justice

¹ *Supra*, p. 241.

² See *supra*, p. 241, n. 1.

³ Brian, C.J. 'Il ad dit per force del custome & ce poit il aver assetz bon. Quod curia concessit.'

⁴ This, it is to be observed, was the defence according to the precedents of the thirteenth century, when a possessory action in the form of an assize of novel disseisin was brought by tenants in villenage. *Supra*, p. 226, Cp. *Y.B.* 32 & 33 Ed I. p. 514. This was also the plea advanced in an action for trespass by a lord against his copyholder reported in 42 Ed. III. p. 25, which is very instructive as to the legal relations of the two. A prior brought an action of trespass against one J. for breaking and entering and carrying away his goods, to wit, corn. 'Et le defendant plede que ceo fuit son franktenement, & fueront a issue, & trove fuit per verdict que le dit J. tient mesme le terre del Prior per copy de courtte rolle a volonte le Prior, pur ce que fuit niefre terre, & pur ce que J. ne voet faire ses services de le terre, le Prior le seist.' Cp. *supra*, p. 203. Upon the point of trespass the verdict was given for the prior. For the defence set up by a copyholder see next page.

Brian was not exactly that attributed to him by the addition to Littleton as translated by Coke. 'But Brian, chiefe justice said, that his opinion hath alwaies been, and ever shall be.' Upon this version by Coke, Professor Ashley insists that 'the very form of Brian's opinion . . . marks it as personal, and as consciously opposed to a general belief.' On looking at the words of the original report, the exact contrary of this will be seen to be the truth. The Chief Justice treats the argument of plaintiff's counsel as a *reductio ad absurdum*, 'for then all the copyhold in England would be defeated,'¹ a conclusion not to be entertained for a moment. The language is not that of a man creating a right without a precedent, as Professor Ashley asserts, but of one defending a right universally recognised as existent.² And that the law was as laid down by him, that only the withdrawal of services justified the entry of the lord, has already been abundantly shown.³

A consequence of these decisions was that petitory actions of copyholders against their lords began to be familiar in the Common Law Courts. So much may be gathered from Coke's insistence on the certainty of the law in his day, and the undisputed recognition of the precedents now fully established explains the comparative rarity of reports of such cases. The Common Law Courts, using the ample liberty of that age, constantly laid down general propositions of law, not always strictly germane to the issue, but embodying, no doubt, the common conclusions of the lawyers of the day, which helped to round off the law on the subject. That this law was speedily settled beyond cavil is clear from a case heard in Michaelmas Term, 21 Henry VII. (1505). It was a case of trespass,⁴ brought in the Court of Common Pleas, the Court, it will be remembered, whence had issued the judgments of Danby and Brian, C.JJ. The plaintiffs were lords of a manor, and the

¹ *Supra*, p. 244.

² 'Throughout the period extending from Bracton to Edward IV. we hear this class of tenants spoken of as if they had a recognised and legally protected interest in the lands.' Digby, p. 245.

³ *Supra*, pp. 214, 215, 226, &c.

⁴ Keilwey's *Rep.* pp. 76-7.

defendants their customary tenants. The defendants allege that they had performed their services, and claimed a prescriptive right, by the custom of the manor, to their holdings. 'Et Frowike [C.J.] semble qe le prescription est assets bon de lyer le seigneur qe il ne poit ouster les customarie tenants.' The counsel for the plaintiff, Palmes, did not deny this. But, instead of proving the power of the lord to evict at will, he took a legal point as to the application of the term 'prescription,' which implies continuance in perpetuity, to the customary tenancy alleged. On this demurrer the case was heard. 'Palmes argua qe les customarie tenants ne purront prescriber enconter lour seigneur de tener le terre enconter son volunt, car lour estate nest forsque a volunte, quel ne poit auer continuance en perpetuitie,' and he enforces this by citing the legal principle that tenants cannot prescribe for common against a stranger by reason of their tenure, but must have the aid of their lord.¹ To this, Kingsmill, J., replies: 'Jeo agrea que vn particulier tenant a volunt ne poit prescriber en son sole tenancie, mes quant le prescription & le custome curt per mye tout le manor, moy semble que per cest voie il poit byen giser en custome, car le seigneur poit eux suer pour lour fines & rents surdants sur le tenure.' Here Kingsmill, J., took the point that had been raised by Danby, C.J., in 1467.² On the other hand, counsel for the plaintiffs did not even attempt to argue that a customary tenant has no remedy against eviction by the lord. The judgment for the defendants on the demurrer was expressed as the opinion of all the judges.

But since the Common Law action of trespass was not, as has been explained, possessory, the Court of Chancery did not relax the exercise of its power to restore the evicted copyholder to his holding. Indeed, under Wolsey, C., the Court became more vigilant and active than before, and in November 1526 a proclamation was issued, commanding not only all persons reprovved by the commissioners for inclosures, but all

¹ Bracton, iv. . 224.

² *Supra*, p. 240.

persons to whom subpoenas had been issued, to appear on a stated day before the Chancellor.¹

Short of actual eviction there were two modes by which copyholders might be dispossessed of their lands. The one was by refusal of admittance to the heir or natural successor, the other by the exaction of unreasonable dues. That oppression was occasionally practised by these means it is not necessary to dispute. The fact that protection was extended to the customary tenant in these particulars also shows that he must at some time have stood in need of it. How far that protection was carried in law, and to what extent it proved effective, still remains to be seen.

Among the laws of William the Conqueror is one intituled 'del relief al uilain.' The best beast, whether horse, ox, or cow, was to be given by way of relief. A clause is added fixing the relief of tenants who pay rent in money at the sum of one year's rent.² The term 'relief' was derived by Bracton from 'relevare,' being the taking up of the inheritance by the heir.³ Its application to villein tenure, therefore, implied a right of succession.⁴ 'The customary right of succession, says Bracton, 'is to be observed.'⁵ Nevertheless, the dislike

¹ Brewer, *Calendar*, iv. 2650. Wolsey was himself accused in 1529 of 'putting out many farmers of his lands & grantees of the Archbishopric of York' (*ibid.* 6075, 3). It is hardly likely that these should have been copyholders, or he could not have ventured upon the energetic interposition of his Court of Chancery for their protection.

² Thorpe, p. 205. 'Le meillur auer quil auerad, u cheval, u bof, u uache durrad a sun seinur. . . . Cil qui tenent lur terre a cense, soit lur dreit relief a tant cum la cense est de un an.' This last clause is inclosed in brackets in Thorpe's edition, and is not given at all in Kelham's *Laws of William the Conqueror*, London, 1779. But whether original or not, it is of great antiquity, for it appears in the Latin version, which belongs to the early part of the fourteenth century.

³ Bracton, f. 84.

⁴ See *supra*, p. 215, n. 3. This is also implied in the doctrine laid down by Coke, which we cannot suppose to have been absolutely novel, that 'as in admittances upon surrenders, so in admittances upon descents, the lord is used as a meer instrument, and no manner of interest passes out of him. . . . These admittances . . . are judicial acts, which every lord is enjoined to execute.' *Compl. Copyh.* § xli.

⁵ Bracton, II. f. 76.

of the Norman lawyers to admit the rights of villeins led to a denial of the application of the term 'relief' to villein tenure and the substitution of the term 'heriot.'¹ But they admitted in the case of villein tenure by fixed service a payment analogous to relief, and they followed the precedent of the Conqueror in fixing it at one year's rent.² It may be inferred, then, that during the two centuries after the Conquest this had been the fine on the admission of the heir to succession in a customary tenancy. And that this fine had been fixed and had found its way into the legal text-books is evidence that the practice was to admit the heir to succession in customary tenures.³ But the judges of Elizabeth's time refused to accept an alleged custom obliging the lord to admissions of the heir to a tenant for life.⁴

In the case of refusal to admit the heir to an estate of inheritance a subpœna would be issued from Chancery.⁵ In

¹ 'The *Book of Domesday* and generally all monkish writers have confounded Heriots and Reliefs' (Cowel, *sub* 'Harlot'). Spelman quotes *Lib. Rames. Monast.* § 63 and 151: 'adquietet eam de servitio quod Heregeat Anglice, Latine relevatio hereditatis dicitur' (*Gloss. s.v.*). But Britton (III. v. 5) says of a 'heriot,' 'ne nule comparisoun ne ad a relief; car il vient plus de grace qe de dreit, et plus de vileins qe des frauncs.'

² 'Et tut ne voille dreiture qe autre tenement soit relevié, qe fee de chevalerie ou de graunt serjauntie, des tenementz neqedent qe ne sount mie de ceux fees, dount le service est mis en certeyn, voloms qe chescun teneant doigne a soen seignur en reconisaunce de seigneurie taunt cum sa rente de un an amoute, issi qe le seignur eit en cel an ausi cum la rente de soen teneant doublé.' Britton, III. v. 4. Bracton, ff. 85 b, 86; Fleta, III. xvii. §§ 11-13.

³ So in N. Germany, 'nach dem Tod eines Hufners wurde der Regel nach mit einem seiner Söhne von neuem kontrahirt was faktisch einem Erbrecht sich näherte' (Hanssen, *Agrarhistorische Abhandlungen*, i. 430. Leipzig, 1880).

⁴ Gray's case, Moore, ed. 1675, p. 788; Ashley, p. 6, n. 6. But Wright (*Tenures*, p. 220) cites Calthrope, Reading, &c., 3, 4, 7, as authority, that in some manors the admission of the heirs of tenants for life was obligatory upon the lord as early as the reign of Henry III. I do not find this statement verified on reference to Calthrope, and the general history of the tenure does not support a conjecture that a custom in favour of the copyholder in the reign of Henry III. would be disallowed in that of Elizabeth. On the other hand, something like such a custom appears in the manor of Brightwaltham, A.D. 1296. Selden Soc. ii. 173-74, and cp. *infra*, p. 254. In the reign of James I. the Star Chamber decided the estates of the northern copyholders to be estates of inheritance. Elton, p. 39. See further, *infra*, p. 260.

⁵ See *supra*, p. 237; Spence, i. 648, n. f.

addition to this, in 1523 the Common Law judges unanimously held that the heir of a copyholder tenant-in-tail should recover by the writ of formedon in the descender.¹ 'The judges,' concludes Coke, 'in all successions of ages have allowed copyhold estates to be established and sure by the custom of the manor, and descendible to their heirs as other inheritances are.'¹ Besides the fine in the nature of a relief, fines were payable by copyhold tenants on two occasions; on the change of the lord,² and for licence to demise.³

It was laid down by Coke that a fine 'though it be incertus must be rationabilis.' The term 'reasonable' applied to relief was familiar to lawyers. 'Dicitur autem rationabile Relevium alicujus juxta consuetudinem regni, de feodo unius militis centum solidi; de socagio vero quantum valet illius socagii per unum annum.'⁴ It was the customary fine already mentioned, which was customary because reasonable, and which was reasonable because customary. For, as upon Littleton's statement of principle in the matter of custom, 'tout ceo que nest pas enconter reason poet estre admitte et allowe,'⁵ Coke bids us note: 'This is not to be understood of every unlearned man's reason, but of artificial and legal reason, warranted by authority of law,' *i.e.*, of precedent. It is scarcely accurate, then, to object that there was 'no explanation what "reasonable" meant'⁶ to those whose business it was to interpret it. Fines were, as a rule, assessed according to the custom of the manor, and it must be remembered that such customs were fixed in periods when the tenants of the manor were more important to the lord than they became in the days of pasture farming and consolidated holdings. The fines due were entered on the court rolls, which, indeed,

¹ 15 Hen. VIII. Tenant per copy. Brook 24, in Coke, *Rep.* Pt. IV. 22 c.

² Confined by a decision *temp.* Elizabeth to cases where the change of the lord was due to the act of God (Coke upon Littleton, § 74). For an example of such a fine see Gairdner, *L. & P.* XII. ii. 548. It was an incident of northern, not of southern, copyhold (Elton, p. 39).

³ The 'heriot' was not a fine on the occupying tenant. It was paid by the estate of the deceased tenant. On the origin of heriots see Williams, *Real Prop.* pt. iii. ch. i.

⁴ Glanville, ix. 4.

⁵ *Tenures*, § 80.

⁶ Ashley, p. 10.

may be said to have taken their origin from the need of an accurate register of their amounts;¹ and they were levied before the suitors of the court. In the later legal text-books it is laid down that the fixing of the fine is the lord's prerogative.² But, since the practice was for the customary courts to be held by the steward and customary tenants, whose powers in early times have been shown to be so extensive, it is not improbable that the suitors of the court exercised a voice in the amount to be levied. A doubt existed as late as the reign of Henry VII. whether, as a general rule of law, this was not the privilege of the suitors of a court leet.³ And it seems to have been the custom on some manors, as late as the time of Coke, that the homage should assess the fine in a court customary.⁴ It is not a violent conjecture, then, that the custom of uncertain fines obtained as a rule upon manors where the lords had wrested this power from their courts. Uncertain fines were frequent in the north, and particularly upon the abbey lands there.⁵ In such cases the copyholder might refuse payment of the fine, if unreasonable, without incurring forfeiture.⁵ If, as was probable, the lord entered for non-payment, the copyholder could then bring an action of trespass, upon which the jury could try whether the fine were reasonable or not. For, as Coke observes, echoing the language of Chief Justice Danby upon another suggested contingency, 'if the lords might assesse unreasonable fines at their pleasures, then most estates by copy, which are a great part

¹ Selden Soc. II. xiv.

² Gilbert, p. 285.

³ So I interpret, though with some hesitation, M.T., 20 Hen. VII. 5: 'Nota que l'opinion de Frowike chiefe justice & Kingmill que tous fines en vn leete poient estre assesse per les ferours' (*i.e.* afferours or assessors). Keilw. *Rep.* p. 65. London, 1602.

⁴ Coke, *Rep.* Pt. IV. 27 *b. n. c.*; Rolle, *Rep.* 48; 1 Freem. 494.

⁵ Dalton v. Hamond, M.T., 42 Eliz. Croke, *Rep.* p. 779. Mr. Elton notes the comparatively dependent condition of copyholders on the estates of the Church (p. 31). A corporation, as Sydney Smith has remarked, is not yielding to pressure.

⁶ Jackman v. Hoddesdon, M.T., 36 and 37 Eliz. Croke, *Rep.* p. 351. It must be remembered that, though these decisions were of later date than the period with which we are concerned, yet they profess to be nothing more than expositions of the law as it stood, or, in other words, of the custom.

of the kingdome, and which have continued time out of minde, might now at the will of the lords be defeated and destroyed, which would be very inconvenient.'¹ Moreover, the lord was bound, in the case of a fine uncertain, to admit the copyholder before payment,² a provision which must have operated in favour of the security of the tenant.' *Beati possidentes*.³

Observation has already been made of the tenacity with which lords asserted their rights over 'nativi,' even when they conceded to them such protection as was to be derived from the occupation of customary lands. It may be argued, therefore, that if in the case of these there were effective safeguards against exaction, the free customary tenants were not left to suffer oppression. In the history of the manor of Castle Combe we have an account of a 'native,' one William Heyne, who, being a tenant of customary lands,⁴ had succeeded in acquiring a great fortune.⁵ Upon his death, in 1436, the lord of the manor held the usual inquisition, but at Caistor, far away from the manor of Castle Combe, and arbitrarily valued his property at 3,000 marks. 'But the homage on the spot, consisting of tenants at Castle Combe (liable to similar imposts, and naturally desirous to restrain their excess), being called together to verify this inquisition,'⁶ rejected it and asserted that, after payment of debts and expenses, the surplus of the property was worth no more than 300 marks. The lord, it is true, asserted his claim on the admission of the widow to the large fine of 20 per cent. of this sum; but it must be remembered that both tenants were 'natives,' and to this

¹ *Compl. Copyh.* § lvii.

² 1 *Watk. Copyh.* 287. Cp. North's account of the manner in which the Lord Keeper Guilford was accustomed to hold manor courts, vol. i. § 25. *Lives of the Norths*, ed. by Jes-opp, p. 30.

³ Two years' improved rent, without deducting land tax, is now fixed as the sum assessable for an arbitrary fine. *Grant v. Astle, Douglas*, 724 (1781). It is remarkable that in 1536 the insurgent tenants compelled the lords to fix 'at every change two years' rent for "gressom,"' in lieu of an arbitrary fine. *Gaird. L. & P.* xi. 1246.

⁴ *Ibid.* p. 225.

⁵ For the acquisition of fortunes by 'nativi' see the *Domesday of St. Paul's*, p. xxv.

⁶ *Hist. of the Manor of Castle Combe*, p. 223.

percentage, considerable though it was, custom may be supposed to have reduced the lord's original rights.¹ The lord, however, reimbursed himself for the reduction by levying another 100*l.* when the widow petitioned for leave to marry again; a tallage, be it observed, with which free customary tenants were not, as a rule, concerned.² What is noticeable is that the lord's council, who fixed these tallages, made no insistence on his theoretically arbitrary power, but, as a tribute to the opinion of the time, invoked 'ryght & reson' as the guides of their proceedings.

The favoured class of tenants in villenage, those holding in ancient demesne, had from time immemorial enjoyed the protection of the Common Law Courts by the writ of Droit Clos (Breve de Recto Clauso) in the case of eviction, and that of Monstraverunt in the case of an attempt to vary the customary services.³ It must not be omitted that no bill lay in

¹ *Hist. of the Manor of Castle Combe*, p. 224.

² Free customary tenants were in the thirteenth century obliged to pay a fine for the marriage of their daughters out of a manor without licence (*Domesday of St. Paul's*, cxxv). The historian of Castle Combe represents a succession of arbitrary exactions, without any pretence of reason, to have been imposed upon the widow of the wealthy 'native' William Heyne. The facts, however, as revealed by the extracts from the court rolls, contained in the notes to pages 222 and 225, show that, however oppressive, these tallages were not made without rule. The facts are as follows: 1. A fine of 40*l.* for permission to keep 'the godes & catall movable lateward the seyd William Heynes,' and 'for the takyng up of the place where the said Margery dælleth.' 2. A fine of 100*l.* for admission to 'omnia messuagia et tenementa' acquired by W. H. *ad voluntatem domini* and for leave to marry Edward Jonys. 3. A fine of 40*l.* for admission of E. J. as joint-tenant with Margery his wife of certain messuages and tenements, the property apparently ('pro fine renovata') of the late W. H., and for admission to certain other land formerly held by Thomas Crumpe. 4. In 1443 is recorded payment of 60*l.*, part of the above fines hitherto left unpaid. These fines show, firstly, that, though W. H. was a 'native,' he was permitted security of tenure of his lands (cp. *supra*, p. 213); secondly, that the tallaging of 'nativi' was according to custom and not arbitrary, though the form of temporary sequestration of the estate was kept up, p. 223, n.

³ Fitzh. *Nat. Brev.* sub vv. Cp. the book of *Old Tenures*, p. 5, ed. 1525. 'Socage en ancien tenure est a tenir en ancien demesne ou nul briefe courte forsque le petit brief de Droit Clos; que est appelle *secundum consuetudinem manerii*. Socage de basse tenure est ceo ou gens teygnt que ne soillent autre brief auoir que le Monstraverunt pour eux discharge, quant lour seigneur eux distreynt pur faire autre scrueces que faire ne dussent.' By the time of Fitz-

equity for the relief of a copyholder against an excessive fine, on the express ground that he received adequate protection under the Common Law.¹ That protection, as has been seen, was affirmed by the Chief Justice in 1467, and again in 1482, though the language of Brian, C.J., leaves it open to doubt whether it had not been previously accorded in unreported cases.² And 1467, it must be remembered, was only seventeen years after the commencement of the period of agricultural change (1450-1550), and before it had arrived at a height sufficient to attract attention from the legislature. After all, it may be urged, these methods of insuring security to the customary tenant were mere bulwarks on paper, of no value where the interests of the lord came into collision with them. Doubtless this might have been so had the central Government been less strong and less resolute to exert its power against oppressive conduct on the part of the aristocracy. To this restraining influence must be added that sensitiveness to public opinion which has from time immemorial distinguished English landowners from their brethren in France, and which was stimulated by the precepts, if not always by the action, of the Church. We are not, however, left to *a priori* speculations upon the effectiveness of the protection accorded by legal doctrine. Recent researches into the history of manors tend to show that, as a matter of fact, customary tenants were not dispossessed nor customary lands alienated from a family on the death of a tenant for life. Alike through periods of political turmoil and of agricultural revolution, the families of customary tenants maintained continuous occupation of their holdings. Hence we find, as early at least as the reign of Henry VI., copyholds held in fee-simple 'ad voluntatem,' a tenure impossible had those words been anything but a fiction.³ And continuous occupation, so powerful was custom,

herbert this distinction between the legal redress accorded to the two classes of tenants seems to have disappeared.

¹ Gilbert, p. 404, n. clxii. Cp. *supra*, pp. 200-201.

² *Supra*, p. 244. Nor does the contention of Littleton affirm that this was not so.

³ Y. B. E. T. 21 Hen. VI. 4, f. 37. Cp. Fitzh. *Suruyenge*, pp. 17, 18 (ed. 1539). Littleton, *Tenures*, § 73.

was equally maintained when the holdings were on imperfect tenures. 'There are a great number of precarious tenures throughout the west of England,' says Mr. Elton,¹ 'where the tenants cannot enforce any new admission, although for many centuries they have had the benefit of the renewal.' That there were exceptions to this rule may be reasonably allowed from the very terms of the tenancy so described, but I have failed to discover positive examples of them. On the contrary, the rule appears to have held good, even in those parts of England where the copyholder's tenure was least secure: in the manor of Brightwaltham, in Berkshire, during the thirteenth century;² in the manor of Winslow, in Buckinghamshire, during the fourteenth century, even in the case of 'nativi' on customary lands;³ in the manor of, Castle Combe, in Wiltshire, during the fifteenth, sixteenth, and seventeenth centuries.⁴ The last is by far the strongest evidence, because the admissions were for life or lives⁵ at uncertain fines upon renewal. In the north was the border tenant right, in the midlands and south-eastern counties were the customary estates of inheritance.⁶ All this is, of course, quite consistent with occasional extortions in manors where fines were uncertain, such as those deplored by Lord Keeper Guilford in a later age.⁷

It has been mentioned⁸ that, besides the demesne and the customary holdings, a manor also included wastes, or uncultivated land. The language of Bracton points clearly to the fact that in times not then remote these had been used as

¹ *Custom and Tenant Right*, by Charles Elton, 1882, p. 67.

² Selden Soc. II. 174, 2.

³ *Seeborn*, p. 30.

⁴ *Hist. of Manor of Castle Combe*, p. 166.

⁵ *Ibid.* p. 320. So that in 1607 an attempt was made by petition to the Court of Chancery to prove the copyholds in this manor to be copyholds of inheritance at a certain fine, *i.e.* See *supra*, p. 248, n. 3, 4.

⁶ Elton on *Custom and Tenant Right*, pp. 80, 81.

⁷ 'He hath said that the greatest trouble he had in those affairs was to satisfy some greedy lords, or rather ladies of manors, in setting the fines and in being in some measure an executioner of their cruelty upon poor men.' North's *Life*, § 26, p. 31.

⁸ *Supra*, p. 196.

the common property of all the tenants.¹ 'Every wild and waste belongs to the country and kindred,' was the principle of the ancient Welsh laws.² But the doctrine of the high prerogative of the lords of manors to inclose the wastes for their individual advantage was introduced to justify their encroachments upon common right,³ and received the legislative sanction of the Statutes of Merton and Westminster the Second.⁴ On this account those statutes were regarded with dissatisfaction in cases where the tenants had exclusively enjoyed common of the wastes.⁵ Thenceforth the wastes were regarded as, in fact, a part of the lord's demesne,⁶ and were cultivated by him upon the same principles as that demesne which had not been converted into customary land. The tenants of the reclaimed wastes were either bondmen, entirely subject to the lord's will, tenants *ad voluntatem* at common law,⁷ or lessees for lives or for a term at common law.⁸ They were not copyholders, because they did not occupy the lands set apart as customary lands. There thus grew up a considerable number of tenants of whom, some at

¹ 'Ubi omnes de patria solebant communicare.' Bracton, iv. 225 b.

² Palmer, p. 46.

³ An example of these is given in the complaint of the free tenants of the honour of Chirk, addressed to the King in 1232: 'That there was no forest or warren in all the land of Chirk before the aforesaid land was given to Roger Mortimer, the uncle, nor for twelve years thereafter, & that the said Roger made a warren and forest in the waste lands and woods of the aforesaid land' &c. (*ibid.* p. 51). See Hale's introduction to the *Register of Worcester Priory*, p. x.

⁴ 20 Hen. III. c. 4; 13 Ed. I. c. 46. The effect of these two statutes upon the existing rights of tenants is discussed at length by Mr. Scrutton in his book on Commons, pp. 59-67, with conclusions generally agreeing with those of the text.

⁵ *Myrrour des Justices*, p. 318.

⁶ *Infra*, p. 258.

⁷ Littleton, *Tenures*, § 82; *supra*, pp. 219, 220. This explains such cases as that mentioned in the letter of J. Musard, a monk of Worcester, to Cromwell, on Jan. 31, 1536. 'He [the abbot] and his predecessors have taken 200 or 300 acres of land from the tenants to enlarge his parks.' This was clearly a resumption of demesne. Gaird. *L. & P.* x. 216. *Supra*, p. 199, n. 3.

⁸ Littleton, *Tenures*, § 58: 'Tenant pur terme dans est lou home lessa terres ou tenements a vn auter pur terme de certain ans solonque le nombre des ans que est accorde perenter le lessor et le lessee.' Cp. Digby, p. 33. For an example of the leasing of a demesne to farmers after it had long been kept in hand by the lords of the manor, see Fuller, *Tenures of Land in Cirencester*, p. 318.

intervals, others at all times, were really, and not by conventional fiction, 'at the will of the lord'; who were exposed, in the case of those who held for terms, to the pressure of competition in prosperous periods when the moment arrived for them to ask a renewal of their tenancies, and who, unlike the customary tenants, had no organisation for defending their interests; who, as strangers to the manor, at any rate in law, if not in blood, enjoyed no protection from opinion or tradition, and, indeed, were the less likely to enlist it that their occupation of land had generally led to a curtailment of common rights¹ and a rise in rents. Such tenancies, both of demesne and of wastes, we meet with as early as the thirteenth century. Amongst the inquiries to be made upon the extent of a manor is 'quot acre prati sunt in dominico, & quantum valet quaelibet acra per se ad locandum per annum; quot etiam acrae sunt pasturae . . . & quantum valeant pasturae cujuslibet bestiae ad locandum per annum. Item de parcis et dominicis boscis, quos dominus pro voluntate sua excolere poterit & assartare . . . & quantum acra fundi valeret per annum, & boscus hujusmodi, si assartaretur.'² Item de . . . omnibus aliis exitibus forestarum, boscorum morarum, bruerarum & vastorum, quantum valeant per annum.'³ Fleta and the statute 'Extenta Manerii' alike assume both the demesne and the reclaimed wastes to be let out to tenants for rent. In his book on 'Surueyenge,' Fitzherbert quotes the concluding portion of the passage from the 'Extenta Manerii,' in words practically identical with those of Fleta.⁴ Fitzherbert, after some remarks on these subjects

¹ For instance, inclosure by the tenant was frequently made the condition of a lease. See Campbell's *Materials for Henry VII.* ii. 283 (1488). Fitzherbert, *Surueyenge*, pp. 60, 61.

² 'Assartaretur.' 'Assartum, vel redactum . . . in culturam,' Bracton, iv. f. 225 b. See Cowel *sub* 'Assart.'

³ Fleta, ii. 71, §§ 4, 5, 7. Cp. the 'Extenta Manerii,' 4 Ed. I. st. 1.

⁴ P. 12. There is one curious variety of reading in the passage, though not among the words given by me in the text. Fitzherbert quotes the statute 'Extenta Manerii' as 'Item inquirendum est de panagio & herbagio ville.' The clause given in the *Statutes of the Realm* is 'de pannagio, herbagio, melle.' In Fleta it is 'de pannagio, herbagio & melle.' After 'melle' in the *Statutes of the Realm*

for inquiry, continues: 'And so it was of olde tyme that all the landes, medowes, and pastures lay open and vnclosed. And than was theyr tenementes moche better cheape than they be nowe, for the mooste part of the lordes *haue enclosed their demeyn landes and medowes*, and kepe them in seueraltie, so that theyr tenauntes haue no commyn with them therin. And also the lordes *haue inclosed a great parte of theyr waste*¹ *groundes and streytened theyr tenauntes of theyr commyns therin*, and also haue gyven licence to dyuers of theyr tenauntes to enclose parte of theyr errable landes, and to take in newe intackes or closes out of the commens, payenge to theyr lordis more rent therfore, so that the commen pastures waxen lasse, and the rentes of the tenauntes waxen more and more. And that is, bycause the tenauntes waxen more polytike in wysedome to improve their tenementes, holdynges and fermes: and at thende of the terme, an other man that made no coste of the sayde improvementes, offreth the lorde certayn money for a fyne to haue it, or to heighthen the rent of the same, so that he that made the coste, or his children, shall not haue the sayd ferme, without he wyl gyue as moche or more as is offred to the lord, and so throw the enuy of his neighbour and the couetousnesse of the lorde and his offycers, the poore tenant hath a great losse, or els vtterly vndone, God amende it.'

I have quoted this passage at length because it conclusively justifies my contention with regard to the inclosures and the evictions which accompanied them. Fitzherbert in the first part of his book, to which this excerpt belongs,²

is given, in brackets, 'oneribus,' with a various reading 'oleribus.' I incline to believe that Fitzherbert's reading of 'ville' is the correct one. After 'ville' he continues: '& omnibus aliis exitibus quantum valent per annum.' The whole passage, I venture to conjecture, should be 'de panagio & herbagio et ville oneribus & omnibus aliis exitibus.'

¹ That these were the inclosures which provoked the insurrections of 1536-37 appears from the letter of Sir R. Tempest and others to Cromwell, July 5, 1535, in which, speaking of rioters, the writer says: 'Their object was to pull down recent inclosures of moors and wastes.' Gaird. *L. & P.* viii. 992. So a riot was caused near Cockermouth by the inclosure of a moor, *ibid.* 1133.

² Ch. viii. pp. 12, 13, ed. 1539.

treats of the demesnes of a manor, including the wastes ; for, he says, 'to euery maner belongethe two thynges, that is to saye, parcelle in demayne and parcelle in seruice,'¹ by which last, as he explains, he means customary land. The treatment of this he reserves to the concluding part of his work.² Yet, while he has expended so much space on the iniquities committed by grasping landowners upon the tenants and lessees of the wastes and demesne, he says not one word of eviction or of extortion in the case of the copyhold tenants.³

That there was no extortion ever practised in the case of these it would be idle to affirm. The appetite of the hereditary landowners, whom the extravagance of Henry VIII.'s court and the severity of his taxation drove to desperation,⁴ can only have been whetted by the facility with which, as Fitzherbert shows, they could despoil their tenants at common law. It is highly probable that they increased the fines paid on admittances, where those fines were by custom uncertain, and raised the rents upon the expiration of life interests.

Of this we have some evidence, though it is not very definite. During the northern rebellion of 1536-37 there were constant outcries against both of these proceedings, but they were by no means necessarily from copyholders. Indeed, the term used for the particular exaction complained of, 'gressum' or 'ingressum,' rather points, though by no means

¹ Ch. x. p. 15.

² Ch. xiii. p. 30. For the same distinction see Littleton, *Tenures*, § 553, where he says that while the customary tenants must attorn on the alienation of a manor, *the tenants of demesne do not, because they are tenants at will.* *Supra*, p. 214.

³ It is in the same chapter that he mentions bondmen and condemns bondage ; but that passage is accompanied by the side-note 'Of bondsmen,' the previous page being headed 'Of customary tenants.' Except so far as their historical origin is concerned, he makes no attempt to confound the two. See *supra*, pp. 209-212.

⁴ See Lord Darcy's *Remembrances* as to the acts of Wolsey (July 1529) : 'We have put so importable charges to the noblemen in the King's name, what in his wars & what in his triumphings, that some have been constrained to mortgage their land, some to sell it outright, some to obtain the King's letters to go a-begging in the realm' (*Br. Cal.* iv. 5750, p. 2560).

decisively, to the tallage of 'nativi,'¹ while the claim to substitute for it the 'God's penny' of contract² suggests a contract or lease rather than a customary holding for lives, the fine on admittance to which had for centuries stood at a higher figure.³ Undoubtedly the 'pulling down of parks,' of which we frequently hear, was a retaliation for the eviction of tenants at will from the lords' demesnes and wastes.⁴ On the other hand, the old customary tenures for lives were in some parts being replaced by leases of copyhold for years, after the model of the common law leases of demesne and wastes. But, it must be remembered, the lessors would naturally be, in many cases, the copyholders themselves. Fitzherbert, indeed, who is always anxious to insist upon his benevolent intentions towards the tenantry, counsels that, on condition of effecting the inclosures which he recommends, the lease for life of the tenant should be extended to embrace the lives of his wife and children also.⁵ But others, less mercifully disposed, preferred a system of short leases, which

¹ Anciently 'gersuma.' See Spelman's *Glossary* and *Domesday of St. Paul's*, p. lxx. This word was properly applied to payments by 'nativi,' and therefore for the most part to tenants at will at common law. See the *Regist. of Worc. Priory*, p. xlii. It was perhaps transferred from them to customary tenants. Payments 'de ingressu' frequently occur in the rolls of the manors of the Abbey of Bec (see below, n. 3), but the status of those paying is not clearly determinable.

² Bracton, IV. xxvii. f. 61 b. For a learned discussion of the 'God's penny' see Maitland on the *Fair of St. Ives*. Selden Soc. II. 133.

³ Proclamation by the rebels in the Pilgrimage of Grace. 'Claim ye old customs and tenant right to take your farms by a God's penny, all gressumes & heyhtnynges to be laid down.' Gaird. *L. & P.* xi. 892, 3. This is inconclusive as to the question of tenure. I have not met with an instance of admittance to a copyhold for the fine of 1*d.*, even in the thirteenth century. Upon the admittances recorded in the various court rolls published in Selden Soc. II. I find 33*s.* 4*d.* (p. 24); 2*s.* and 4*s.* (p. 25); 20*s.* (p. 28); 1*s.* (p. 33); 10*s.* (p. 34) and £4 6*s.* 8*d.* (p. 38). It cannot be doubted that in the sixteenth century the fines were higher.

⁴ 'Ther ys a gret number of the Commonse uppe abowte Salyssebury in Wylleshire, and they have pluckyd downe Sir Wyllyam Hurberde's parke that ys abowte his newe howse and dyverse other parkysse and commonse that be inclosyd in that cuntre . . . They say thaye wyll nat have ther commonse growndes to be inclosyd and soo taken from them.' May 25, 1549. John Paston to the Earl of Rutland, *Rutland MSS.* p. 36. Cp. Gaird. *L. & P.* XI. ii. 186, 53.

⁵ *Surueynge*, p. 60. *Supra*, p. 211.

would allow of the raising of the rent at end of the term,¹ and the imposition of a fresh fine; though this was generally limited in the case of the customary tenants upon the principle already described.² The evidence, it must be borne in mind, comes from the Northern counties. Notwithstanding the interested efforts of the lords, so strongly established was the principle of copyhold that copyholders of the northern, midland, and south-eastern counties maintained the estates of inheritance; while in the west of England, where they were weakest, copyholds for lives are the rule to the present day.³ We hear that the copyholders were hard pressed. We do not hear that they were evicted.⁴ Their legal rights were too well ascertained, and the anxiety of the Government to protect not only the borderers,⁵ but the agricultural tenants generally,⁶

¹ 'We should also have gressomed the tenants in Northumberland & Yorkshire, had not the earl (of Northumberland) done so shortly before his death, & given them leases for 21 years.' Robt. Southwell to Cromwell, Gaird. *L. & P.* XII. ii. 548. In 1484 the Government endeavoured to check sub-leases on the royal lands. Gaird. *L. & P. Ric. III.* and *Hen. VII.* i. 79.

² *Supra*, pp. 247-251. 'Both before the insurrection & after, examinators and others petitioned Mr. Layborne to be good to them for their ancient customs, saying there was no better reason that where his father took 4 marks for an ingressum, he should take £40, seeing they were bound there to the Marches without wages upon the warden's proclamation, beacon, or letter.' Gaird. *L. & P.* xii. 914 (1547).

³ Elton on *Custom and Tenant Right*, pp. 30, 31.

⁴ 'They [the farmers] come not to service in the old numbers, and are ill furnished, partly through raising of rents, partly decay of tillage & towns.' Articles concerning Northumberland, Green's *Cal. Add.* p. 422. For the military conditions of their tenure see *supra*, n. 2, and Gaird. *L. & P.* x. 1049, XII. ii. 548.

⁵ In 1537 (Feb. 21) Norfolk reported to Cromwell, after the suppression of the northern insurrection, that 'this border is sore weked and specially Westmoreland.' He attributes the rebellion to 'the gressing of them so marvellously sore in times past' and to the inclosures. We must take it that he is speaking of the northern copyholders, whose rights, it must be remembered, were less established than those of the more ancient copyhold tenures of the south, though eventually they became more assured, no doubt owing to the care of the Government in fostering a class invaluable for defence against Scotland. Gaird. *L. & P.* xii. 392. *Supra*, p. 248, n. 4.

⁶ In 1537, when disturbances threatened in Lancashire, the King gave instructions to his commissioners there that 'if any commons have been inclosed, or any gentleman take such excessive fines that their tenants cannot live, the earls shall labour to bring such inclosers and extreme takers of fines to such moderation that they and the poor men may live in harmony' (*ibid.* 302).

made it unsafe for landowners to venture to override them to any noticeable extent. Indeed, the comparative security of the copyholders was such as to excite the envy of the rest of the farming and labouring class. One of the demands of the Pilgrimage of Grace was that these should be placed upon the same favoured footing of tenancy.¹

I have now accomplished the object with which I undertook this investigation. I have shown that, while contemporary documents indicate that the persons dispossessed by the evictions of the fifteenth and sixteenth centuries were other than copyholders, those indications are confirmed by a review of the actual state of the law of copyholds at that time, as well as by an inquiry into the manner in which that law became settled. While a large section of the population was anciently and continued in the sixteenth century to remain really and not by convention 'at the will of the lord,' the copyholders or holders in villenage, even in those extreme cases where they were serfs settled upon what had once been demesne land, were protected. Between these two classes of copyholders, indeed, the 'native' blood, which was the ground of tallage, continued an evanescent distinction. The memory of that distinction still survives in the phrases 'according to the custom of the manor,' and 'at the will of the lord,' devised for that end. But both the classes were secure of tenure, subject to the fulfilment by them of the conditions obligatory upon them; and both of them, as holding by inolment upon the records of the lord's court, were marked off from his other tenants, whether free or bond. The various methods of legal redress for infraction of right accorded to copyhold tenants, from the Customary Court in which they anciently acted as judges, and in that capacity formed its precedents, to the Court of Chancery, which asserted their interests against their lords, point to the same strong line of

¹ 'That the lands in Westmoreland, Cumberland, Kendall, Dent, Sadber, Fornes & the abbey lands in Mashamshire, Kyrkbyshire, Notherdale, may be by tenant right, and the lord to have, at every change, two years' rent for "gressom," according to the grant now made by the lords to the commons there, ths to be done by Act of Parliament' (*ibid.* xi. 1246).

demarcation existing between the tenants 'at will of the lord' and the tenants, to adopt the jurists' interpretative epenthesis, 'at the ancient will of the lord.'¹

To the last class of tenants the Common Law Courts in the fifteenth century furnished additional and more expeditious redress against encroachment upon their rights. The other class remained, as they had from the first been, defenceless, save that the number of those in personal bondage was being rapidly reduced.² These were the victims of the agricultural revolution. Lastly, that the legal rights of the copyholders were such as to enable them to weather the storm is proved by the transmission to the present day over the greater part of England of copyhold estates of inheritance 'at the will of the lord according to the custom of the manor.'

¹ *Supra*, p. 220, n. 1.

² In 1781 a remarkable judgment was delivered by Lord Loughborough, then Chief Justice of the Common Pleas, in *Grant v. Astle* (Douglas, 724). He observed that 'in those parts of Germany from whence the Saxons emigrated into England, there exists *at this day* a species of tenure exactly the same with our copyhold estates, and there exists *at this day* a complete state of villenage.'

THE COMMISSION ON INCLOSURES

M.S. R.O. Br. Cal., II. 3297. 28 May, 1517.

Inquirendum de villis & hamelettis prosternatis & inclusis & parcis elargatis

Rex dilectis & fidelibus suis Johanni Veysy Decano capelle nostre, Andree Wyndesore militi & Rogero Wegeston nuper de Leycestre salutem. Cum nuper retroactis temporibus diversi ligei nostri nec Deum aut regni nostri vtilitatem & commodum seu eiusdem defensionem pre oculis habentes nonnullas villas hamelettas & alia loca infra hoc regnum nostrum Anglie ubi multi subditorum nostrorum inhabitaverunt & ibidem agriculturam & iconimiam annuatim et assidue frequentarunt ac exercebant cum sepibus & fossatis aliisque clausuris incluserunt eosdemque subditos nostros inhabitantes a tenuris & firmis suis expulerunt & eiecerunt ac ambitus domorum villarum & hamelettarum predictarum necnon campos & terras infra eadem in pasturam & greges ouium aliorumque animalium propter privatum eorum commodum & proficuum illuc depascendos reducerunt et quosdam magnos campos pasturamque & boscum eorundem in grandes & latos parcos & quosdam in augmentacionem parcorum ad feras ibidem solummodo depascendas imparcarunt per quod predicte ville hamelette & loca non modo in desolacionem sed etiam domus & edificia eorundem in tantam ruinam perducta sunt ut nullum impresentiarum superest vestigium eorundem atque subditi nostri qui dicta loca inhabitaverunt & ibidem agriculturam ac iconimiam frequentarunt & exercebant modo ad ocium que est nouerca virtutum reducti sunt & indies ociosi degunt & gramina ac cattallorum procreacio que per eosdem agricolas & iconimos inhabitantes in ipsis villis hamelettis & locis ad humanam sustentacionem procreata & nutrita fuerunt subtracta & ab eisdem locis prorsus euacuata existunt ecclesieque & capelle inibi sanctificate destructe annuaque seruicia ibidem

sublata animarumque Christianorum ibidem sepulchorum memoria prorsus & omnino deleta quamplurimaque alia dampna inestimabilia inde accrescunt & indies in futurum accrescent in maximam desolacionem & dispendium regni nostri subditorumque nostrorum diminucionem nisi remedium oportunum pro eorundem reformatione cicius & maturius adhibeatur. Nos sicut ex debito tenemur predicta reformare cupientes ac de eisdem cerciorari volentes que & quot ville & hamelette ac quot domus & edificia a festo sancti Michaelis Archangeli anno regni illustrissimi domini Henrici nuper Regis Anglie septimi patris nostri precarissimi quarto prosternuntur & quot & quante terre que tunc in cultura erant & iam in pasturam concluduntur & convertuntur necnon quot & quanti parci pro feris nutriendis citra idem festum imparcantur et que terre aliquibus parcis vel alicui parco qui tunc fuerint aut fuerit pro ampliacione & elargacione huiusmodi parcorum concluduntur. Assignamus igitur vos & duos vestrum ad inquirendum per sacramentum proborum & legalium¹ hominum de Comitatu Oxoniensi, Berkensi, Warwicensi, Leycestrensi, Bedfordiensi, Bakinghamensi & Northamptoniensi tam infra libertates quam extra ac aliis viis modis & mediis quibus melius sciueritis aut poteritis que & quot ville quot domus & edificia a predicto festo prosternuntur & quot & quante terre que tunc in cultura erant & iam in pasturam convertuntur necnon quot & quanti parci pro feris nutriendis citra idem festum includuntur et que terre aliquibus parcis vel alicui parco qui tunc fuerint aut fuerit pro elargacione huiusmodi parcorum includuntur et per quos vel per quem ubi quando qualiter & quo modo ac de aliis articulis & circumstanciis premissa qualitercunque concernentibus plenius veritatem secundum tenorem & effectum quorundam articu-

¹ 'He that is on a jury must be *liber homo*. Secondly, he must be *legalis*. And by the law every juror that is returned for the tryall of any issue or cause ought to have three properties. First, he ought to be dwelling most neere to the place where the question is moved. Secondly, he ought to be most sufficient both for understanding and competencie of estate. Thirdly, he ought to be least suspicious: that is, to be indifferent as he stands unsworne: and then he is accounted in law *liber et legalis homo*' (Coke upon Littleton, § 234).

lorum in quadam billa specificatorum hiis presentibus annexa. Et ideo vobis mandamus quod circa premissa diligenter intendatis ac ea faciatis & exequamini cum effectu. Mandamus autem tenore presencium vicecomitibus nostris comitatum predictorum quod ad certos dies & loca quos eis scire facietis venire faciant coram vobis vel duobus vestrum tot & tales probos & legales homines de balliua sua per quos rei veritas melius sciri poterit & inquiri. Et quid feceritis in premissis nobis in Cancellaria nostra a die sancti Michaelis proxime futuro in tres septimanas certificatis unacum hac commissione. In cuius &c. Teste Rege apud Westmonasterium xxviii die Maii.

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Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Hundred of Humbleyard</i>	acres	acs.	acs.	acres					
2	1	Brakon	60	60	—	—	1	—	—	—	—
2	1	Est Carleton . .	30	—	—	30	1	—	—	—	—
2	1	Intewoode . . .	30	—	—	30	1	—	—	—	—
2	1	Querarlam . . .	(30)	—	—	(30)	—	1	—	—	—
		<i>Hundred of Holte</i>									
2	1	Bayfield	60	—	—	60	—	—	—	—	1
2	1	Egefeld	22	—	—	22	—	—	—	1	—
2	1	Egefeld	18	—	—	18	—	—	—	1	—
2	1	Saxlyngham . . .	40	—	—	40	—	—	—	—	1
3	1	Melton	40	—	—	40	—	—	—	—	1
		<i>Hundred of East Flegg and West Flegg</i>									
3	1	Martham	40	—	—	40	—	—	1	—	—
3	1	West Somerton .	16	—	—	16	—	—	1	—	—
		<i>Hundred of Loddon and Knaveryng</i>									
3	1	Loddon	40	—	40	—	—	—	—	1	—
3	1	Alby	80	—	40	40	1	—	—	—	—
3	1	Wheteacreburgh	40	—	—	40	1	—	—	—	—
3	1	Mondambrome .	30	—	—	30	1	—	—	—	—
		<i>Hundred of Smythdon</i>									
4	(5)	Choyssell	300	—	30	270	1	—	—	—	—
4	(5)	Choyssell	300	—	60	240	—	—	1	—	—
4	1	Hecham	60	—	—	60	—	—	—	1	—
4	1	Stanowe	120	—	—	120	—	1	—	—	—
4	1	Honston	15	16	—	—	1	—	—	—	—
4	1	Snethysham . .	60	—	—	60	—	—	—	—	1
4	1	Stanehewe	60	—	—	60	—	1	—	—	—
4	1	Barwyk	60	—	—	60	—	1	—	—	—
4	1	Barwyk	60	—	—	60	—	—	1	—	—
		<i>Hundred of Launditch</i>									
5	1	Hoo	30	—	—	30	—	1	—	—	—
5	1	Betele	45	—	—	45	—	—	—	1	—
5	1	North Elynham .	37	—	37	—	—	1	—	—	—
5	1	North Elynham .	26	—	20	6	—	—	—	—	—
5	1	North Elynham .	16	—	16	—	—	—	—	—	1
5	1	North Elynham .	30	—	—	30	—	1	—	—	—
5	1	Bayselee	16	—	16	—	—	1	—	—	—
5	1	Bayselee	26	—	26	—	—	—	—	—	—
5	1	Gatelee	24	—	24	—	—	1	—	—	—
6	1	Gatelee	26	—	26	—	—	—	—	1	1
6	1	Gatelee	30	—	30	—	—	—	—	1	1
6	2	Myleham	80	—	—	—	—	1	—	—	—
6	1	Myleham	60	—	—	60	—	—	—	—	—
6	1	Myleham	18	—	18	—	—	1	—	—	—
6	1	Tytelyshale . . .	40	—	40	—	—	—	—	—	1
6	1	Kempson	12	—	12	—	—	—	1	—	—
6	1	Kempson	80	—	—	80	—	—	1	—	—

¹ Throughout the tables brackets indicate that the figures have been inferred from data which will be added when the original MS. is printed.

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Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Hundred of Launditch—cont.</i>	acres	acs.	acs.	acres					
6	1	Wendlyng . . .	(60)	—	—	(60)	—	—	1	—	—
7	1	Rougham . . .	200	—	—	200	1	—	—	—	—
7	1	Wesingham . .	80	—	—	80	—	1	—	—	—
7	1	Dunham parva .	40	—	—	40	1	—	—	—	—
7	1	Dunham parva .	160	—	—	160	1	—	—	—	—
7	1	Ffraunsham . .	18	—	18	—	—	1	—	—	—
7	1	Ffraunsham . .	16	—	16	—	—	1	—	—	—
7	1	Skernyng . . .	40	—	40	—	—	—	1	—	—
7	1	Skernyng . . .	18	—	18	—	—	1	—	—	—
7	1	Skernyng . . .	25	—	—	25	—	1	—	—	—
7	1	Skernyng . . .	19	—	19	—	—	1	—	—	—
7	1	Colkryke . . .	26	—	—	26	—	1	—	—	—
7	1	Colkryke . . .	16	—	16	—	—	1	—	—	—
7	1	Colkryke . . .	30	—	—	30	—	1	—	—	—
8	1	Colkryke . . .	43	—	—	43	—	1	—	—	—
8	1	Hornyngtoft . .	30	—	30	—	—	—	—	—	—
8	1	Oxwyk	30	—	—	30	1	—	—	—	—
		<i>Greenhoe, North Hundred</i>									
8	1	Holkeham . . .	200	—	200	—	—	—	—	—	2
8	1	Holkeham . . .	100	—	—	100	—	—	—	—	1
8	1	Holkeham . . .	30	—	—	30	—	1	—	—	—
8	1	Warham	30	—	—	30	—	1	—	—	—
8	1	Warham	80	—	—	80	—	1	—	—	—
8	1	Styfkey	20	—	—	20	—	1	—	—	—
8	1	Hyndryngham .	100	—	—	100	—	—	1	—	—
8	1	Hyndryngham .	20	—	—	20	2	—	—	—	—
8	1	Thyryniorth . .	30	—	—	30	1	—	—	—	—
9	1	Wytton	80	—	—	80	1	—	—	—	—
9	1	Wytton	40	—	—	40	1	—	—	—	—
9	1	Walsyngham Magna	60	—	—	60	—	—	—	1	—
9	1	Walsyngham Magna	60	—	—	60	—	—	—	1	—
9	1	Walsyngham Magna	2	—	2	—	1	—	—	—	—
9	1	Hoveton	40	—	—	40	—	—	—	1	—
		<i>South Erpingham Hundred</i>									
9	1	Colteshale . . .	25	—	25	—	1	—	—	—	—
9	1	Bylawe	37	—	—	37	—	—	—	—	1
9	1	Haughboys Magna	40	—	28	12	—	1	—	—	—
9	1	Haughboys Magna	100	—	80	20	1	—	—	—	—
9	1	Buxston	180	—	90	90	1	—	—	—	—
9	1	Bakenthorp . .	19	—	—	19	—	1	—	—	—
10	1	Calthorpe . . .	20	—	—	20	—	1	—	—	—
10	1	Calthorpe . . .	24	—	—	24	—	1	—	—	—
10	1	Calthorpe . . .	26	—	—	26	1	—	—	—	—
10	1	Canston	16	—	—	16	—	1	—	—	—
10	1	Blykelyng . . .	18	18	—	—	—	—	—	—	1
10	2	Blykelyng . . .	10	10	—	—	—	—	—	—	—
10	1	Aylesham . . .	14	—	—	14	—	—	—	—	1
10	1	Arpyngham . .	30	—	—	30	—	1	—	—	—

Continued

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of in- closure	General observations
1	—	(2) messuagia	—	—	—	—
—	—	—	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	—	1509	—
—	—	—	—	—	1511	—
—	—	—	—	—	1511	—
—	—	—	—	—	1505	—
—	—	—	—	—	1501	—
—	—	—	—	—	(1515)	—
—	—	—	—	—	1510	—
—	—	—	—	—	(1515)	—
—	—	—	—	—	(1515)	—
—	—	—	—	—	1507	—
—	—	diversa tenementa	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	unum tene- mentum	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	2 acres	—	—
—	—	—	—	—	—	quas habet (prior) ad firmam de domino Roos
—	—	1 messuagium	—	—	—	—
—	—	tenementa	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	1 manerium	—	—	—	—
—	—	1 manerium	—	—	—	—
—	—	—	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	a common way en- closed in parz	—	—
—	—	1 tenementum	—	—	—	—
—	—	1 messuagium	—	—	—	—
—	—	1 tenementum	—	—	—	—

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Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>South Erpingham Hundred—cont.</i>									
10	1	Arpyingham . .	acres 20	acr.	acr.	acres 20	—	1	—	—	—
10	1	Arpyingham . .	Not specified	—	—	Not specified	—	1	—	—	—
10	1	Arpyingham . .	100	—	—	100	—	—	—	—	1
		<i>Hundred of Freebridge</i>									
11	1	Fflytcham . .	60	—	—	60	—	—	—	1	—
11	3	Herpeley . .	250	—	—	250	—	—	—	1	—
11	1	Fflytcham . .	168	—	—	168	—	—	—	—	1
11	1	Fflytcham . .	400	—	6	394	1	—	—	—	—
11	1	Fflytcham . .	810	—	—	840	1	—	—	—	—
11	1	Harpeley . .	(98)	—	—	(98)	—	—	—	1	—
11	1	Massyngham Parua	16	—	—	16	1	—	—	—	—
11	1	Massyngham Parua	16	—	—	16	—	1	—	—	—
11	1	Castellacre . .	40	—	40	—	1	—	—	—	—
11	1	Castellacre . .	num inter- grum hame- lett	—	—	Not specified	1	—	—	—	—
12	Several	Bawsey . .	60	—	—	60	1	—	—	—	—
12	1	Gaywood . .	19	—	—	19	—	1	—	—	—
12	1	Routon . .	10	—	—	10	—	1	—	—	—
12	1	Wynche . .	35	—	—	35	—	1	—	—	—
12	1	Hyllingston . .	30	—	—	30	1	—	—	—	—
12	1	Grymston . .	15	—	—	15	—	1	—	—	—
12	1	Sandryngham . .	26	—	—	26	1	—	—	—	—
12	1	Rysyngcastell . .	30	—	—	30	—	1	—	—	—
12	1	North Wotton . .	56	—	—	56	1	—	—	—	—
12	1	Donmer (Anmer)	100	—	—	100	—	—	—	—	1
12	1	Lynne . .	40	—	—	40	gild	—	—	—	—
12	1	Brabyngle . .	36	—	—	36	—	1	—	—	—
12	1	Brabyngle . .	30	—	—	30	—	—	—	—	1
12	1	Brabyngle . .	20	—	—	20	—	—	—	—	1
		<i>Hundred of Depewade</i>									
13	1	Mornyngthorpe	23	—	—	23	—	1	—	—	—
		<i>Skropham and Giltcross Hundreds</i>									
13	1	Attylburgh . .	30	—	—	30	—	—	—	1	—
13	1	Attylburgh . .	80	—	—	80	1	—	—	—	—
13	1	Besthorpe . .	80	—	—	80	—	1	—	—	—

Continued

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
14	—	15 inhabi- tationes	—	—	—	—
—	—	tenementum	—	16 acres	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	vnum inte- grum hamelett cum omnibus tenementis	—	—	—	—
—	—	—	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	—	—	—
—	—	1 tenementum	—	—	—	—
unum ara- trum deletur	—	—	—	—	—	inclosed by Thomas Thurisby, also incloser at Castell- acre and Barwyck
—	—	—	—	—	—	—
—	—	1 manerium	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	—	—	—
—	—	cum vno messuagio	—	—	—	—
—	—	—	—	tres acre residue sunt de comunia ville predicte	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	Tenementum totaliter in decasu	—	—	—	—

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Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Shropham and Giltcross Hundreds—cont.</i>	acres	acs.	acs.	acres					
13	1	Ekkyllys . . .	20	—	—	20	—	—	—	1	—
13	1	Shropham . .	48	—	—	48	1	—	—	—	—
13	1	Lytlebrekylls .	20	—	—	20	—	1	—	—	—
14	1	Schadewell . .	20	—	—	20	—	—	1	—	—
14	Several	Schadewell . .	80	—	—	80	—	—	1	—	—
14	1	Stalham . . .	16	—	—	16	—	1	—	—	—
		<i>Tunstede Hundred</i>									
14	1	Northwalsham .	30	—	14	16	—	—	—	—	1
14	1	Northwalsham .	70	—	—	70	—	1	—	—	—
14	1	Rydyngton and Crostwyke	27	—	27	—	—	1	—	—	—
		<i>North Erpingham Hundred</i>									
14	1	North Barnyng-ham	24	—	—	24	1	—	—	—	—
14	1	Town Barnyng-ham	8	—	—	8	—	1	—	—	—
14	1	Suffield . . .	30	—	—	30	—	1	—	—	—
		<i>Henstede Hundred</i>									
15	1	Parua Parloind .	12	—	12	—	—	2	—	—	—
15	1	Stoke	10	—	—	10	—	1	—	—	—
15	1	Stoke	100	—	—	100	—	1	—	—	—
15	1	Shotesham . .	60	—	60	—	—	1	—	—	—
		<i>Eynsford Hundred</i>									
15	1	Brandeston . .	(60)	—	—	(60)	—	—	1	—	—
15	1	Weston . . .	(60)	—	—	(60)	—	—	1	—	—
15	1	Belawe . . .	(60)	—	—	(60)	1	—	—	—	—
		<i>Diss Hundred</i>									
16	1	Thorp Parua . .	30	—	—	30	1	—	—	—	—

Continued

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of in- closure	General observations
—	—	—	—	—	—	—
—	—	Tenementum in decasu	—	—	—	—
—	—	—	—	—	—	—
—	—	diversa tenementa. (3)	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	1 tenementum	—	—	—	—
—	—	—	—	'xxvij ac. comunis le gresyng de Ryd- lyngton & Crost- wyke'	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	vnum tenementum	—	—	—	—
—	—	—	—	magnum detrimen- tum dicte ville pro eo quod non habetur ibi le Shakke leke ut ab antiquo	—	—
—	—	—	—	—	—	—
—	—	dicta placea in ruinam deducit- ur	—	—	—	—
—	—	—	—	ratione dicte in- clau-ure dicte villa omisit le Shakke	—	—
vnum ara- trum deponitur	—	—	—	—	—	—
vnum ara- trum deponitur	—	—	—	—	—	—
vnum ara- trum deponitur	—	—	—	—	—	—
—	—	deposuit man- sionem manerii	ad decasum ecclesie ibidem	—	—	—

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Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Diss Hundred—continued</i>	acres	acs.	acs.	acres					
16	1	Tetyshale . . .	27	—	—	27	—	1	—	—	—
16	1	Tetyshale . . .	30	—	—	30	—	1	—	—	—
16	1	Wyndeferthing .	25	—	—	25	—	villata	—	—	—
		<i>Freebridge Marshland Hundred</i>									
16	1	Emneth . . .	20	—	20	—	—	1	—	—	—
		<i>Greenhoe South Hundred</i>									
17	1	Hale . . .	40	—	23	17	—	1	—	—	—
17	1	Palgrave . . .	(120)	—	—	(120)	1	—	—	—	—
17	1	Dunham . . .	40	—	—	40	—	1	—	—	—
17	1	Estbradenham .	80	—	40	40	—	—	—	1	—
17	1	Scarnyng and Westbradenham	40	—	—	40	—	—	1	—	—
17	1	Pykenham . .	40	—	—	40	—	1	—	—	—
17	1	Estbradenham .	30	—	15	15	—	1	—	—	—
		<i>Mitford Hundred</i>									
18	1	Dereham . . .	20	—	—	20	1	—	—	—	—
18	1	Dereham . . .	50	—	—	50	—	1	—	—	—
18	1	Leiton . . .	36	—	—	36	—	1	—	—	—
		<i>Hundred of Forow</i>									
18	1	Hyngham . . .	40	—	—	40	—	1	—	—	—
18	1	Morley . . .	30	—	—	30	—	1	—	—	—
18	1	Barnhambrome .	34	—	30	4	1	—	—	—	—
18	1	Kemerley . . .	40	40	—	—	1	—	—	—	—
18	1	Wyndham . . .	13	—	—	13	—	1	—	—	—
19	1	Bowthorp . . .	48	—	22	26	—	—	1	—	—
19	1	Bowthorp . . .	18	—	—	18	—	—	1	—	—
		<i>Hundreds of Blofield and Walsham</i>									
19	1	Plompsted Magna	50	—	—	50	—	—	—	—	1
19	1	Thorp episcopi .	80	—	40	40	—	—	1	—	—
19	1	Plomsted . . .	15	—	—	15	1	—	—	—	—
19	1	Poswyke . . .	50	—	—	50	—	—	—	1	—
19	1	Wytton . . .	100	—	—	100	1	—	—	—	—
19	1	Oxyl . . .	30	—	—	30	—	1	—	—	—

Continued

tenants	No. of ploughs put down	No. of persons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
-	-	-	Tenementum negligenter combustum cum tenemento quod totaliter in decasu existit	-	-	-	-
-	-	-	dictum messuagium in decasu existit	-	-	-	-
-	-	-	messuagium vnum manerium & tota terra eidem pertinens messuagium	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	I	-	manerium	-	-	1497	-
-	-	-	-	-	-	-	-
-	-	-	messuagium messuagium	-	-	-	-
-	I	-	-	-	per quod dicta villa caret le Shakk de dictis xxxiiijacris	-	-
-	-	-	-	-	-	-	-
-	-	-	vnum tenementum vnum tenementum	-	-	-	-
-	-	-	-	-	-	-	-
I	I	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	I	-	-	-	-	-	-
-	I	-	-	-	-	-	-

NORFOLK—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Hundreds of Blofield and Walsham—cont.</i>									
20	1	Bastwyke . . .	acres (120)	—	—	acres (120)	—	—	—	—	1
20	1	Cantely . . .	80	—	—	80	—	1	—	—	—
		<i>Hundreds of Wayland and Grimshoe</i>									
20	1	Saham Tony . .	60	—	60	—	1	—	—	—	—
20		Blyngbam parva	76	—	—	76	1	—	—	—	—
20	1	Watton . . .	77	—	—	77	—	1	—	—	—
20	1	Merton . . .	30	—	—	30	—	—	—	1	—
20	1	Merton . . .	40	—	—	40	—	—	—	1	—
20	1	Asshell . . .	26	—	—	26	—	1	—	—	—
20	2	Asshell . . .	60	—	—	60	2	—	—	—	—
20	1	Asshell . . .	60	—	—	60	1	—	—	—	—
21	1	Methewold . .	30	—	—	30	—	—	1	—	—
		<i>Hundreds of Gallow and Brothercross</i>									
21	1	Ketelston . . .	26	—	—	26	—	1	—	—	—
21	1	Ryhorow . . .	80	—	—	80	—	—	—	1	—
21	1	Destreton . .	80	—	—	80	—	1	—	—	—
21	1	Northbarsham .	80	—	—	80	1	—	—	—	—
21	1	Bagthorp . . .	40	—	—	40	—	—	1	—	—
21	1	Skulthorp . . .	80	—	—	80	—	1	—	—	—
21	1	Howton . . .	80	—	—	80	2	—	—	—	—
22	1	Estrudham . .	80	—	—	80	—	—	1	—	—
22	1	Westrudham . .	40	—	—	40	1	—	—	—	—
22	1	Burnham . . .	40	—	—	40	—	—	—	1	—

Continued

[illegible]

YORKSHIRE¹—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
23	1	<i>Wapentake of Allertonshire</i>	acres	acr.	acr.	acres						
		Horneby . . .	400	400	—	—	1	—	—	—	—	
23	1	<i>Wapentake of Gilling East</i>										
		South Cowton .	120	—	—	120	1	—	—	—	—	
23	1	<i>Wapentake of Ryedale</i>										
		Harum	60	—	—	60	1	—	—	—	—	
23	1	<i>Wapentake of Allertonshire and Gilling East</i>										
		Steuerton . . .	200	—	—	200	—	—	1	—	—	
23	1	<i>Liberty of Langbaugh</i>										
		Danby	40	40	—	—	1	—	—	—	—	
24	1	<i>Wapentake of Hallikeld</i>										
		Thorntonbrige .	60	60	—	—	1	—	—	—	—	
24	1	<i>Wapentake of Hang East</i>										
		Snappe	100	100	—	—	1	—	—	—	—	
24	1	<i>Wapentake of Gilling West</i>										
		Hoton	60	—	—	—	1	—	—	—	—	
25	1	<i>Wapentake of Hallikeld</i>										
		Dysford	40	—	—	40	—	—	1	—	—	
25	1	<i>Wapentake of Badforth and Gilling East</i>										
		Kyrkbywyske .	24	—	—	24	—	—	1	—	—	
25	1	<i>Wapentake of Hallikeld</i>										
		Est Tanfeld . .	400	—	—	400	1	—	—	—	—	

¹ The Wapentakes and Liberties of Yorkshire are not given in the MS.

NORTH RIDING

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of in- closure	General observations
—	—	—	—	—	—	—
4	20	quatuor messuagia	—	—	—	—
3	—	—	—	—	—	—
4	4	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	octo messuagia prosteruntur	—	—	—	—

YORKSHIRE—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
		<i>Liberty of Langbaurgh</i>	acres	acs.	acs.	acres						
25	1	Kylton	28	28	—	—	1	—	—	—	—	
25	1	Droton	30	—	—	30	—	1	—	—	—	
		<i>Liberty of Whitby Strand</i>										
25	1	Ffyllyng	8	—	—	8	—	—	—	—	1	
25	1	Brieforde	20	—	—	—	1	—	—	—	—	
		<i>Wapentake of Allertonshire</i>										
25	1	Thornton in Iestrete	200	—	—	200	1	—	—	—	—	
		<i>Wapentake of Allertonshire and Birdforth</i>										
25	2	Northoteryngton	115	—	—	115	—	—	1	—	—	
		<i>Wapentake of Allertonshire</i>										
26	1	Sourey Under-cotclyff	(155)	—	—	(155)	—	—	1	—	—	
26	2	Swalfield	60	—	—	60	—	2	—	—	—	
26	2	Cotesby	100	—	—	100	—	—	—	1	—	
		<i>Wapentake of Birdforth</i>										
26	1	Marderbury . .	80	—	—	—	—	—	1	—	—	
		<i>Wapentake of Ryedale</i>										
26	1	Southholme . .	120	—	—	120	1	—	—	—	—	
		<i>Wapentake of Bulmer</i>										
26	1	Styknem	104	—	—	104	1	—	—	—	—	
26	1	Fferlyngton . .	40	—	—	40	—	1	—	—	—	
		<i>Liberty of Langbaurgh</i>										
26	1	Mekelbargh . .	36	—	—	36	—	—	1	—	—	
		<i>Wapentake of Ryedale</i>										
27	1	Emslay	60	—	—	60	1	—	—	—	—	
		<i>Liberty of Langbaurgh</i>										
27	1	Leuerton	40	—	—	40	1	—	—	—	—	
27	1	Lytill Hayton . .	8	—	—	8	1	—	—	—	—	

NORTH RIDING—*Continued*

Lay tenants	No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of Inclosure	General observations
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	6	—	ea de causa quisque co- tagia proster- nuntur	—	—	—	—
—	4	—	—	—	—	—	—
—	5	—	duo messuagia	—	—	—	—
—	—	—	—	—	—	—	—
—	2	—	—	—	—	—	—
—	5	20	quinque messuagia	—	—	—	—
—	4	—	duo messuagia tria cotagia	—	—	—	—
—	—	—	—	—	—	—	—
—	1	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—

YORKSHIRE—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
27	1	<i>Wapentake of Lower Skyrack</i> Temple Newsome	acres 80	acres 80	acs.	acs.	1	—	—	—	—
		<i>Wapentake of Lower Barkstone Ash</i>									
27	1	Byrkyn . . .	80	80	—	—	1	—	—	—	—
27	1	Leyde . . .	40	40	—	—	1	—	—	—	—
28	1	Kydall . . .	30	30	—	—	1	—	—	—	—
		<i>Wapentake of Upper Skyrack</i>									
28	1	Moretoun . . .	(93)	—	—	(93)	—	—	1	—	—
		<i>Wapentake of Morley</i>									
28	1	Calverley . . .	20	20	—	—	1	—	—	—	—
		<i>Wapentake of Upper Agbrigg</i>									
28	1	Fferneley . . .	100	100	—	—	1	—	—	—	—
		<i>Wapentake of Morley</i>									
28	2	Bollyng and Denholme	(400) 'magnam quantita-tem'	(400)	—	—	1	—	—	—	—
28	1	Houdysworth .	40	40	—	—	1	—	—	—	—
		<i>Wapentake of Lower Agbrigg</i>									
28	1	Thornehill . .	60	60	—	—	1	—	—	—	—
		<i>Wapentake of Staincross</i>									
28	1	Cheyte	31	31	—	—	1	—	—	—	—
		<i>Wapentake of Upper Osgoldcross</i>									
28	1	Kinsley	10	10	—	—	1	—	—	—	—
		<i>Wapentake of North Strafforth</i>									
28	1	Wentworth . .	4	4	—	—	1	—	—	—	—

WEST RIDING

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of in- closure	General observations
4	—	quatuor mes- suagia qua- tuor cotagia	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
3	12	tria messuagia	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—
1	4	vnum mes- suagium	—	—	—	—
—	—	—	—	—	—	—
—	—	—	—	—	—	—

YORKSHIRE—

Page	No. of Inclosures	Parishes	Extent inclosed	Objects of Inclosure			Condition of Inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
29	1	<i>Wapentake of Upper Osgoldcross</i> Emssall . . .	4 acres	4 acres	acs.	acs.	1	—	—	—	—	
29	1	<i>Wapentake of Staincross</i> Woley	4	4	—	—	1	—	—	—	—	
29	1	<i>Wapentake of South Strafforth</i> Thriber . . .	85	85	—	—	1	—	—	—	—	
29	1	Longstroth . .	40	40	—	—	1	—	—	—	—	
29	1	<i>Wapentake of Staincliffe and Ewecross</i> Barden	(400) 'magnam quantita-tem pasture et bosci')	(400) 'magnam quantita-tem pasture et bosci')	—	—	1	—	—	—	—	
29	1	<i>Wapentake of Upper Osgoldcross</i> Houedon . . .	(300) 'certam quantita-tem pasture et bosci')	(300) 'certam quantita-tem pasture et bosci')	—	—	1	—	—	—	—	
29	1	<i>Wapentake of Staincliffe and Ewecross East</i> Carlton in Cray-vyne . . .	40	40	—	—	1	—	—	—	—	
29	1	Braswell . . .	3	3	—	—	1	—	—	—	—	
29	1	Hammerton . .	20	20	—	—	1	—	—	—	—	
29	1	Brodeley . . .	20	20	—	—	—	1	—	—	—	
30	1	<i>Wapentake of Staincliffe and Ewecross West</i> Rymyngton . .	100	—	—	100	1	—	—	—	—	
30	1	Bolton	100	—	—	100	1	—	—	—	—	
30	1	Lytyll Newton .	40	—	—	40	1	—	—	—	—	
30	1	Newfeld . . .	20	—	—	20	1	—	—	—	—	
30	1	<i>Wapentake of Upper and Lower Claro</i> Alburgh . . .	180	—	—	180	—	—	—	—	paro- chia de Alburgh	

YORKSHIRE—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
30	1	<i>Wapentake of Holderness South</i> Brystwyke . .	acres 100	—	—	acres 100	1	—	—	—	—	
30	1	<i>Wapentake of Holderness Middle</i> Grymston . .	40	—	—	40	1	—	—	—	—	
30	1	Monkewyke . .	(31)	—	—	(31)	—	1	—	—	—	
31	1	<i>Wapentake of Holderness North</i> Ffoytit	20	—	—	20	—	—	—	—	1	
31	1	<i>Wapentake of Buckrose</i> Wharrom Percy .	(124)	—	—	(124)	1	—	—	—	—	
31	1	<i>Wapentake of Holderness Middle and North</i> Taunstorn . .	40	—	—	40	1	—	—	—	—	
31	1	Cayrthorp . .	200	—	—	200	1	—	—	—	—	
31	1	<i>Wapentake of Harthill</i> Lekenfield . .	140	140	—	—	1	—	—	—	—	
31	1	Scarburgh . .	80	80	—	—	1	—	—	—	—	
31	1	Holme	10	10	—	—	1	—	—	—	—	
31	1	Hyinginge Grymston	40	—	—	40	—	—	1	—	—	
32	1	<i>Wapentake of Howdenshire</i> Estryngton . .	14	—	—	14	1	—	—	—	—	
32	1	<i>Wapentake of Dickering</i> Ffraysthorp . .	40	—	—	40	—	—	1	—	—	
32	1	<i>Wapentake of Holderness North</i> Carleton . . .	(31)	—	—	(31)	—	1	—	—	—	

EAST RIDING

Lay tenants							
	No. of ploughs put down	No of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
—	—	—	—	—	—	—	—
2 1	8 4	duo messuagia vnum mes- suagium	— —	— —	— —	— —	— —
—	—	—	—	—	—	—	—
4	—	quatuor messuagia	—	—	—	—	—
5	20	— quinque messuagia	— —	— —	— —	— —	— —
— — — 2	— — — 8	— — — duo messuagia	— — — —	— — — —	— — — —	— — — —	— — — —
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
1	6	vnum messuagium	—	—	—	—	—

YORKSHIRE—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Wapentake of Holderness Middle</i>									
32	1	Skarlagh	acres (31)	acr.	acr.	acres (31)	1	—	—	—	—
32	1	Benyngholme Swyne	(31)	—	—	(31)	—	—	1	—	—
		<i>Wapentake of Buckrose</i>									
32	1	Thurkylby	3	—	—	3	—	1	—	—	—
		<i>Wapentake of Dickering</i>									
32	—	Ffyley	(78)	—	—	(78)	—	—	—	—	1
		<i>Wapentake of Holderness Middle</i>									
32	—	Ffienton	(52)	—	—	(52)	—	1	—	—	—
33	1	Ffienton	(15)	—	(15)	—	—	1	—	—	—
		<i>Wapentake of Holderness North</i>									
33	1	Lylly and Dyke	(45)	—	—	(45)	1	—	—	—	—
33	—	Attenwike. . . .	(78)	—	—	—	—	1	—	—	—
33	1	Lytill Cowden . .	100	—	—	100	1	—	—	—	—
33	—	Beforth	(45)	—	—	—	1	—	—	—	—
		<i>Wapentake of Holderness South</i>									
33	1	Hilom	(74)	—	—	(74)	—	—	1	—	—
33	(3)	Ottringham . . .	(100)	—	—	(100)	—	—	—	—	2
		<i>Wapentake of Holderness Middle</i>									
34	1	Ffythyng	3	—	—	3	1	—	—	—	—
34	—	Sprotley	(62)	—	—	(62)	—	—	—	—	—

EAST RIDING—*Continued*

tenants	No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
—	—	4	vnum	—	—	—	—
1	—	6	tenementum vnum messuagium	—	—	—	—
—	—	—	duo cotagia	—	—	—	—
—	—	10	duo messuagia	—	—	—	'occupat tres huse- bunde- holdings'
—	—	4	—	—	—	—	'tenet ij huse- bunde- holdings'
—	—	3	vnum messuagium	—	—	—	—
—	—	—	vnum messuagium	—	—	—	—
—	—	17	(3) messuagia	—	—	—	—
4	—	24	1 cotagium	—	—	—	—
—	—	6	(5) messuagia 1 messuagium	—	—	—	—
—	—	4	vnum messuagium	—	—	—	—
—	—	13	diversa tene- menta, (3)	—	—	—	—
—	—	—	—	—	—	—	—
—	—	8	diversa mes- suagia, (2)	—	—	1487	—

HEREFORDSHIRE

Page	No. of inclo- sures	Parishes	Extent inclosed	Objects of inclo- sure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
35	1	<i>Hundred of Broxash</i>	acres	acr.	acr.	acres						
		Parva Cockern	54	—	—	54	—	—	1	—	—	
35	2	<i>Hundred of Greylake</i>										
		Walford . . .	(240)	—	—	(240)	—	—	—	—	1	
35	3	Ffalley . . .	(360)	—	—	(360)	—	—	—	1	—	
35	1	<i>Hundred of Radlow</i>										
		Spledon . . .	(36)	—	—	(36)	—	—	—	—	1	
35	2	Barton Callewail	(72)	—	—	(72)	—	—	—	1	—	
36	1	Ledburye . . .	(36)	—	—	(36)	—	1	—	—	—	
36	1	Roseburye . . .	(36)	—	—	(36)	—	—	—	—	1	
37	2	Esbache . . .	(72)	—	—	(72)	1	—	—	—	—	
37	1	<i>Hundred of Wolphy</i>										
		Orleton . . .	(15)	—	—	(15)	—	—	—	—	1	
37	1	Orleton . . .	(15)	—	—	(15)	—	—	—	—	1	
37	1	Yarpole . . .	(30)	—	—	(30)	—	—	—	—	1	
37	1	Ouertun . . .	(30)	—	—	(30)	—	—	—	—	1	
37	1	Pedelleston . .	(30)	—	—	(30)	—	—	—	—	1	
37	1	Orleton . . .	20	—	—	20	—	—	—	—	1	
37	1	<i>Hundred of Leominster</i>										
		Hida	(72)	—	—	(72)	—	—	1	—	—	
37	1	<i>Hundred of Wolphy</i>										
		Lucketon . . .	(15)	—	—	(15)	1	—	—	—	—	
38	1	Papelarns . . .	(36)	—	—	(36)	1	—	—	—	—	
38	1	Bradfordes Brugge	4	—	—	4	1	—	—	—	—	
			1,271				1,271					

HEREFORDSHIRE

	No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
	unum ara- trum sex bovium	'infra ean- dem vil- lam non plures sunt persone quam quatuor'	mansio cog- nita per nomen Rectorie	—	—	1497	—
	—	—	duo messuagia	—	—	1503	—
	3	—	tria messuagia	—	—	1501	—
	1	—	—	—	—	—	—
	2	—	—	—	—	—	—
	1	—	—	—	—	—	—
	1	—	—	—	—	—	—
	2	—	—	—	—	—	—
	—	inhabitantes	quoddam messuagium	—	—	(1515)	—
	—	—	aliud quoddam messuagium	—	—	—	—
	—	inhabitantes	messuagium	—	—	(1515)	—
	—	inhabitantes	messuagium	—	—	—	—
	—	inhabitantes	messuagium et cotagium	—	—	—	—
	—	—	—	—	'quæ quondam fue- runt & iacuerunt in communia tenentibus Regis'	—	—
	—	inhabitantes	messuagium	—	—	—	—
	—	inhabitantes	messuagium	—	—	—	—
	—	inhabitantes	messuagium	—	—	—	—
	2	inhabitantes	2 messuagia	—	—	—	—
	—	inhabitantes	messuagium	—	—	—	—
	—	inhabitantes	messuagium	—	—	—	—
	—	—	—	—	'communis pastura'	—	—

STAFFORDSHIRE

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
		<i>Hundred of Cuttlestone</i>	acres	acr.	acr.	acres						
39	3	Cumberforde . .	53	—	28	25	1	—	—	—	—	
39	1	Cumberforde . .	4	4	—	—	1	—	—	—	—	
39	1	Chedull . . .	60	—	—	60	—	1	—	—	—	
		<i>Liberty of Duchy of Lancaster</i>										
39	1	Throwley . .	60	60	—	—	1	—	—	—	—	
39	1	? Tixall . . .	100	100	—	—	1	—	—	—	—	
		<i>Hundred of Seadon</i>										
39	1	Loxley . . .	23	23	—	—	1	—	—	—	—	
		<i>Hundred of Offlow</i>										
39	1	The Horecross .	4	4	—	—	1	—	—	—	—	
		<i>Hundred of Seisdon</i>										
39	1	Patteshill . . .	3	—	—	3	1	—	—	—	—	
		<i>Hundred of Pirehill</i>										
46	1	Brycheford . .	40	—	—	40	1	—	—	—	—	
46	—	Highe Offleye .	—	—	—	—	—	1	—	—	—	
46	—	Highe Offleye .	—	—	—	—	1	—	—	—	—	
46	1	? Biddulph . .	30	30	—	—	—	—	—	—	—	
46	1	? Haywood . .	30	30	—	—	—	—	—	—	1	
		<i>Hundred of Cuttlestone</i>										
46	1	Chellyngton . .	5	5	—	—	—	—	—	—	1	
		<i>Hundred of Offlow</i>										
46	1	Adbaston . . .	20	—	—	20	1	—	—	—	—	
46	2	Russhall . . .	60	60	—	—	1	—	—	—	—	

STAFFORDSHIRE

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
—	—	—	—	—	1516, 13 Mar.	—
—	—	—	—	'de communis terre'	1516	—
—	—	—	—	—	1502, 1 Mar.	—
—	—	—	—	—	1509, 12 May	—
—	—	—	—	—	1497, 2 Aug.	—
—	—	—	—	—	1505	—
—	—	—	—	—	1494	—
—	—	—	—	'tres acras prati communis'	1497	—
—	—	—	—	—	1512, 1 Mar.	—
—	—	messuagium	—	—	1512, 1 Mar.	—
—	—	cotagium	—	—	1512, 1 Mar.	—
—	—	—	—	—	1486, 2 April	—
—	—	—	—	—	1501, 1 Aug.	—
—	—	—	—	—	1510	—
—	—	—	—	—	1510, 1 May	—
—	—	—	—	—	1516, 10 Feb.	—

HAMPSHIRE AND

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
		<i>Hundred of Redbridge</i>	acres	acr.	acr.	acres						
40	—	Wynsore . . .	—	—	—	—	—	—	—	—	—	
40	1	Newtonberye .	12	—	—	12	1	—	—	—	—	
		<i>Hundred of Somborne</i>										
40	1	Ffarley	40	40	—	—	1	—	—	—	—	
		<i>Hundred of Mansbridge</i>										
40	1	Alington . . .	18	—	—	18	—	—	—	—	1	
		<i>Hundred of Kingsclere</i>										
40	1	Erlston	(100)	—	—	(100)	—	—	—	1	—	
41	1	Ewerst	(100)	—	—	100	—	—	—	1	—	
		<i>Hundred of Crondale</i>										
41	1	Ichill	13	13	—	—	1	—	—	—	—	
		<i>Hundred of Shutteley</i>										
41	1	Loke Dewer . .	40	—	—	40	1	—	—	—	—	
41	1	Breche and Sockborowe	40	—	—	40	1	—	—	—	—	
		<i>Hundred of Basingstoke</i>										
41	1	Bramsyll	120	120	—	—	1	—	—	—	—	
41	1	Bewraper . . .	24	24	—	—	1	—	—	—	—	
		<i>Hundred of Odiham</i>										
42	1	Dogmersfelde .	52	52	—	—	—	—	1	—	—	
		<i>Isle of Wight</i>										
42	1	Hassebourne . .	100	—	—	100	—	—	—	—	1	
42	1	? Esthamlode . .	50	—	—	50	—	—	—	1	—	
42	1	Stepelhurst . . .	(55)	—	—	(55)	—	—	—	1	—	
42	1	Lyttell panne . .	(50)	—	—	(50)	—	1	—	—	—	
42	1	Chalcom	(100)	—	—	(100)	—	—	—	1	—	

LONDON AND

Page	No. of inclosures	Places	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
			acres	acr.	acr.	acres					
43	1	? Arlington's inclosure	10	—	10	—	—	1	—	—	—
43	1	? Worsley's inclosure	8	—	8	—	—	—	—	1	—
43	1	? Goodwyn's inclosure	7	—	7	—	—	1	—	—	—
43	1	Londonfeld . .	1½	—	1½	—	—	1	—	—	—
43	1	Darlestonfelde .	7	—	7	—	—	1	—	—	—
43	1	Blakeheth . .	11	—	11	—	—	1	—	—	—
43	1	Dauserlane . .	3	—	3	—	—	1	—	—	—
43	1	Le Hyde . . .	6	—	6	—	—	1	—	—	—
43	1	Le Hyde . . .	6	—	6	—	—	1	—	—	—
43	1	Estfeld . . .	6	—	6	—	—	1	—	—	—
43	1	Estfeld . . .	2	—	2	—	—	1	—	—	—
44	1	Londonfeld . .	6	—	6	—	—	1	—	—	—
44	1	Londonfeld . .	8	—	8	—	—	1	—	—	—
44	1	Londonfeld . .	9	—	9	—	—	1	—	—	—
44	1	Londonfeld . .	5	—	5	—	—	1	—	—	—
44	1	Londonfeld . .	100	—	100	—	—	—	1	—	—
44	1	Londonfeld . .	6½	—	6½	—	—	1	—	—	—
44	1	Londonfeld . .	6	—	6	—	—	1	—	—	—
44	1	Londonfeld . .	2	—	2	—	—	1	—	—	—
44	1	Barbarne . .	4	—	4	—	—	1	—	—	—
44	1	Welstredfeld . .	4	—	4	—	—	1	—	—	—
44	1	Welstredfeld . .	7	—	7	—	—	1	—	—	—
45	1	Welstredfeld . .	24	—	24	—	—	1	—	—	—
45	1	Welstredfeld . .	4½	—	4½	—	—	1	—	—	—
45	1	Welstredfeld . .	5	—	5	—	—	1	—	—	—
45	1	Welstredfeld . .	7	—	7	—	—	1	—	—	—
45	1	Cancelane . .	16	—	16	—	—	1	—	—	—

BERKSHIRE

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Hundred of Moreton</i>	acres	acr.	acr.	acres					
47	3	Fulscote . . .	240	—	—	240	—	—	—	—	1
		<i>Hundred of Compton</i>									
47	1	Ffarneburgh . .	20	—	—	20	—	—	—	—	1
47	1	Compton . . .	200	—	—	200	—	—	—	—	1
		<i>Hundred of Morston</i>									
47	1	Bastelden . . .	20	—	—	20	—	—	—	—	1
47	1	Upton . . .	20	—	—	20	—	—	—	—	1
		<i>Hundred of Faircross</i>									
47	1	Chilvey . . .	20	—	—	20	—	—	—	—	1
47	1	Vatyndon . . .	40	—	—	40	—	—	—	—	1
48	1	Chivela . . .	20	—	—	20	—	—	—	—	1
48	1	Bedon . . .	40	—	—	40	—	—	—	—	1
48	1	Chadleworth . .	40	—	—	40	—	—	—	—	1
		<i>Hundred of Wanting</i>									
48	1	Esthendred . .	24	—	—	24	—	—	—	—	1
48	1	Grove . . .	30	—	—	30	—	1	—	—	—
48	1	Est Hanney . .	20	—	—	20	—	—	1	—	—
48	1	Ardynghton . .	50	—	—	50	—	1	—	—	—
48	1	Westlockhenge .	20	—	—	20	—	—	1	—	—
49	1	Est Gyngre . .	30	—	—	30	—	1	—	—	—
		<i>Hundred of Reading</i>									
49	1	Greneham . .	26	—	—	26	—	—	1	—	—
		<i>Hundred of Moreton</i>									
49	1	Harewell . . .	20	—	—	20	—	—	—	1	—
		<i>Hundred of Skirivenham</i>									
49	1	Compton . . .	(60)	—	—	(60)	1	—	—	—	—
49	1	Burton . . .	20	—	—	20	—	—	—	—	—
		<i>Hundred of Reading</i>									
49	1	Crokeham . .	20	—	—	20	—	—	—	1	—

BERKSHIRE

tenants	No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of in- closure	General observations
	—	—	3 messuagia	—	—	1516, 10 May	—
	—	—	messuagium	—	—	1511, 6 Mar.	—
	—	—	messuagium	—	—	1507, 8 Jan.	—
	—	—	messuagium	—	—	1501, 10 Mar.	—
	—	—	messuagium	—	—	1512, 6 Mar.	—
	—	—	messuagium	—	—	1497, 10 Mar.	—
	—	—	messuagium	—	—	1495, 18 July	—
	—	—	messuagium	—	—	1505, 10 July	—
	—	—	messuagium	—	—	1506, 6 June	—
	—	—	messuagium	—	—	1517, 6 April	—
	—	—	messuagium	—	—	1512, 2 Oct.	—
	—	—	messuagium	—	—	1510, 7 Nov.	—
	—	—	messuagium	—	—	1502, 8 Aug.	—
	—	—	messuagium	—	—	1506, 6 Sept.	—
	—	—	messuagium	—	—	1510, 10 June	—
	—	—	messuagium	—	—	1512, 6 May	—
	—	—	messuagium	—	—	1512, 6 Mar.	—
	—	—	messuagium	—	—	1510, 16 Aug.	—
	—	—	2 messuagia	—	—	1497, 16 Mar.	—
	—	—	messuagium	—	—	1498, 12 April	—
	—	—	messuagium	—	—	1491, 6 Mar.	—

300 TRANSACTIONS OF THE ROYAL HISTORICAL SOCIETY

BERKSHIRE—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
49	I	<i>Hundred of Horner</i> West Sandeford .	acres 60	—	—	acres 60	—	—	—	I	—
50	I	<i>Hundred of Horner</i> West Sandeford .	40	—	—	40	—	—	I	—	—
50	5	<i>Hundred of Ganfield</i> Shalyngford . .	112	—	—	112	—	—	I	—	—
50	I	Bukland . . .	40	—	—	40	—	I	—	—	—
50	I	<i>Hundred of Ripplesmere</i> Wyngfeld . . .	20	—	—	20	—	I	—	—	—
50	I	<i>Hundred of Charlton</i> Berkeham . . .	100	—	—	100	—	I	—	—	—
50	I	<i>Hundred of Horner</i> Drayton . . .	20	—	—	20	—	—	I	—	—
50	I	<i>Hundred of Wargrave</i> Wargrave . . .	40	—	—	40	—	—	I	—	—
50	I	<i>Hundred of Ock</i> Marcham . . .	40	—	—	40	—	—	I	—	—
51	I	Appelford . . .	40	—	—	40	—	—	I	—	—
51	I	<i>Hundred of Moreton</i> South Morton .	20	—	—	20	—	I	—	—	—
51	I	Dudcott . . .	20	—	—	20	I	—	—	—	—
51	I	Aston Turrold .	30	—	—	30	—	—	I	—	—
51	I	Aston Turrold .	30	—	—	30	I	—	—	—	—
51	I	Aston Turrold .	30	—	—	30	I	—	—	—	—
51	I	Harwell . . .	100	—	—	100	—	I	—	—	—
51	I	<i>Hundred of Reading</i> Pangbourn . .	20	—	—	20	—	—	I	—	—
52	I	Tyleherst . . .	30	—	—	30	—	—	I	—	—
52	I	<i>Hundred of Charlton</i> Hartley . . .	15	—	—	15	—	I	—	—	—
52	I	<i>Hundred of Theale</i> Wolhampton . .	20	—	—	20	—	—	I	—	—

Continued

rs	Lay tenants	No. of ploughs put down	No. of persons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observations
—	—	—	—	messuagium	—	—	1499, 10 July	—
—	—	—	—	messuagium	—	—	1509, 7 Nov.	—
—	—	—	—	5 mes uagia messuagium	—	—	1507, 10 Oct. 1516, 16 Feb.	—
—	—	—	—	messuagium	—	—	1510, 10 Jan.	—
—	—	—	—	messuagium	—	—	1517, 4 Mar.	—
—	—	—	—	messuagium	—	—	1515, 6 Mar.	—
—	—	—	—	messuagium	—	—	1501, 6 June	—
—	—	—	—	messuagium messuagium	—	—	1501, 7 Aug. 1508, 7 May	—
—	—	—	—	messuagium	—	—	1507, 19 Ap.	—
—	—	—	—	messuagium	—	—	1505, 10 June	—
—	—	—	—	messuagium	—	—	1492, 7 June	—
—	—	—	—	messuagium	—	—	1513, 16 July	—
—	—	—	—	messuagium	—	—	1517, 7 April	—
—	—	—	—	messuagium	—	—	1515, 6 May	—
—	—	—	—	messuagium messuagium	—	—	1505, 20 May 1505, 10 July	—
—	—	—	—	messuagium	—	—	1516, 4 May	—
—	—	—	—	messuagium	—	—	1507, 10 July	—

GLOUCESTERSHIRE

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
		<i>Hundred of Kiftgate</i>	acres	acr.	acr.	acres					
53	1	Weston Mawdytt	240	—	—	240	1	—	—	—	—
53	11	Bradmarston . . .	330	—	—	330	1	—	—	—	—
53	1	Meene	170	—	—	170	1	—	—	—	—
53	1	Meene	40	—	—	40	1	—	—	—	—
53	1	Meene	38	—	—	38	1	—	—	—	—
53	1	Meene	30	—	—	30	1	—	—	—	—
53	1	Meene	32	—	—	32	1	—	—	—	—
54	1	Mykylton	260	—	260	—	—	—	—	—	—
54	1	Hydecote Bertram	340	—	—	340	—	—	—	—	1
54	1	Clopton	120	—	—	120	—	—	—	—	1
54	2	Camden	180	—	—	180	—	—	—	—	2
54	1	Dumbleton . . .	60	—	—	60	—	—	—	—	1
		<i>Britwell's Barrow Hundred</i>									
55	1	Nawesley	50	—	—	50	—	—	1	—	—
		<i>Berkeley Hundred</i>									
55	2	Hyll	11	11	—	—	1	—	—	—	—
		<i>Grumbald Ash Hundred</i>									
55	1	Duram	240	240	—	—	1	—	—	—	—
55	1	Parua Sodbury .	260	—	—	—	1	—	—	—	—
55	1	Charfeld	170	—	—	170	1	—	—	—	—
		<i>Thornbury Hundred</i>									
56	3	Thornbury . . .	300	300	—	—	1	—	—	—	—
56	2	Thornbury . . .	163	163	—	—	1	—	—	—	—
56	2	Thornbury . . .	180½	180½	—	—	1	—	—	—	—
		<i>Britwell's Barrow Hundred</i>									
57	1	Colm Aylwynes .	62	—	—	62	—	—	—	—	1
		<i>Kiftgate Hundred</i>									
57	1	Cokbury	77	—	—	77	—	—	—	—	1
		<i>Tenkesbury Hundred</i>									
57	1	Dykston	190	—	—	190	1	—	—	—	—
		<i>Tibboston Hundred</i>									
57	1	Dydote	300	—	—	300	—	—	—	—	1

GLOUCESTERSHIRE

Lay tenants	No. of ploughs put down	No. of persons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Dat of inclosure	General observations
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1510	—
—	—	—	—	—	—	1509	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1492	—
—	—	—	—	—	—	1511	—
—	—	—	—	—	—	1509	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1510	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1515	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1516	—
—	—	—	—	—	—	1514	—
—	—	—	—	—	—	1514	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1503, 24 Nov.	—
—	—	—	—	—	—	1515, 10 Jan.	—
—	—	—	—	—	—	1515, 10 Jan.	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1496	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1512, 4 Feb.	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1507	—
—	—	—	—	—	—	—	—
—	—	—	—	—	—	1500	—

CAMBRIDGESHIRE

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers				
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants
58	1	<i>Hundred of Cheveley</i>	acres	acr.	acr.	acres					
		Cheveyley . .	12	12	—	—	1	—	—	—	—
58	1	<i>Hundred of Chelsterton (Chelsterton)</i>									
		Childerley . .	250	—	—	250	1	—	—	—	—
58	1	Cotenham . .	100	1	—	100	1	—	—	—	—
58	1	<i>Hundred of Stowe</i>									
		Gamlyngay . .	400	—	—	400	1	—	—	—	—
58	1	Long Stowe . .	60	—	—	60	1	—	—	—	—
59	1	<i>Hundred of Arnyngford</i>									
		Steeple Morden .	40	—	—	40	—	—	—	—	1
59	1	Est Hatley . .	100	—	—	100	1	—	—	—	—
59	1	Est Hatley . .	40	—	—	40	1	—	—	—	—
59	1	Shyngey . . .	280	—	—	280	1	—	—	—	—
59	2	<i>Hundred of Whately</i>									
		Malton	(140)	—	—	(140)	—	2	—	—	—

CAMBRIDGESHIRE

No. of ploughs put down	No. of per- sonsejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observa- tions
—	—	—	—	—	—	—
—	—	—	—	—	—	—
—	—	messoagium	—	—	1488	—
—	—	—	—	—	1492	—
—	—	—	—	—	1490	—
—	—	—	—	—	1490	—
—	—	—	—	—	1511	—
—	—	—	—	'communem pasturam'	1490	—
4	—	—	—	'vnde ducente acre terre eorundem vse fuerunt vil- lagio'	1504	—
2	—	—	—	—	1493	—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
		<i>Hundred of Purslowe</i>	acres	acs.	acs.	acres						
60	1	Hopeshaye . . .	40	—	—	40	—	1	—	—	—	
60	1	Hopsey	2	—	2	—	—	1	—	—	—	
60	1	Hopsey	1	—	1	—	—	1	—	—	—	
60	1	Hopsey	6	—	6	—	—	1	—	—	—	
60	1	Hopsey	1	—	1	—	—	1	—	—	—	
60	1	Hopsey	4	—	4	—	—	1	—	—	—	
60	1	Hopsey	2	—	2	—	—	1	—	—	—	
60	1	Hopsey	2	—	2	—	—	1	—	—	—	
60	1	Hopton	4	—	4	—	—	1	—	—	—	
60	1	Hopton	3	—	3	—	—	1	—	—	—	
60	1	Hopton	2	—	2	—	—	1	—	—	—	
61	1	Bucknell	26	—	—	26	1	—	—	—	—	
61	1	Bucknell	7	—	7	—	—	1	—	—	—	
61	1	Bucknell	1	—	1	—	—	1	—	—	—	
61	1	Bucknell	1	—	1	—	—	1	—	—	—	
61	1	Bucknell	2	—	2	—	—	1	—	—	—	
61	1	Bucknell	1	—	1	—	—	1	—	—	—	
61	1	Purslowe	30	—	—	30	—	—	1	—	—	
61	1	Coston	10	—	—	10	—	1	—	—	—	
61	1	Ledome	20	—	—	20	1	—	—	—	—	
		<i>Franchise of Wenlock</i>										
61	1	Willer	10	—	—	10	—	1	—	—	—	
		<i>Hundred of Parlowe</i>										
61	1	Beeston	6	—	6	—	—	1	—	—	—	
61	1	Beeston	2	—	2	—	—	1	—	—	—	
61	1	Beeston	4	—	4	—	—	—	—	1	—	
61	1	Eydon	12	—	12	—	—	1	—	—	—	
62	1	Eydon	10	—	10	—	—	1	—	—	—	
62	1	Eydon	4	—	4	—	—	1	—	—	—	
62	1	Brynslowe	4	—	—	4	—	1	—	—	—	
62	2	Norbury	42	—	42	—	—	1	—	—	—	
62	1	Norbury	2	—	2	—	—	1	—	—	—	
62	1	Whitecote (Norbury)	40	—	40	—	—	villata	—	—	—	
62	1	Whitecote (Norbury)	2	—	2	—	—	1	—	—	—	
62	1	Herdwyk (Norbury)	20	—	20	—	—	1	—	—	—	
62	1	Kynerton Marshes	40	—	40	—	—	—	—	—	1	
62	1	Astanton	5	—	5	—	—	1	—	—	—	
62	1	Astanton	2	—	2	—	—	1	—	—	—	
		<i>Franchise of Wenlock</i>										
62	1	Boculton	40	—	—	40	—	1	—	—	—	
63	1	Newton	20	—	—	20	—	1	—	—	—	
63	1	Kynston	20	—	—	20	—	1	—	—	—	
63	1	Downton	20	—	—	20	—	1	—	—	—	
63	1	Le More	20	—	—	20	—	1	—	—	—	
63	1	Normycote	20	—	—	20	—	1	—	—	—	
63	1	Cleastaunton	20	—	—	20	—	1	—	—	—	
63	1	Ditton	20	—	—	20	—	1	—	—	—	
63	1	Weston	20	—	—	20	—	1	—	—	—	
64	1	Patton	20	—	—	20	—	1	—	—	—	
64	1	Burton	20	—	—	20	—	1	—	—	—	
64	1	Larden	20	—	—	20	—	1	—	—	—	
64	1	Posenall	20	—	—	20	—	1	—	—	—	
64	1	Bradley	20	—	—	20	—	1	—	—	—	

Tenants	No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observa- tions
	—	—	—	—	—	1516, April 4	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1511	—
	—	—	—	—	—	1511	—
	—	—	—	—	—	1511	—
	—	—	—	—	—	1515, Mar. 10	—
	—	—	—	—	—	1515	—
	—	—	—	—	—	1515	—
	—	—	—	—	—	1515	—
	—	—	—	—	—	1515	—
	9	12	(2)	—	—	1515	—
	—	—	—	—	—	1514	—
	—	—	—	—	—	1510, Mar. 2	—
	—	—	—	—	—	1502	—
	—	—	—	—	—	1509	—
	—	—	—	—	—	1509	—
	—	—	—	—	—	1509	—
	—	—	—	—	—	1509	—
	—	—	—	—	—	1509	—
	—	—	—	—	—	1514	—
	—	—	—	—	'XL acr. bosci communis'	1504, Mar. 1	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	—	1504	—
	—	—	—	—	'XL acr. terre communis'	1504	—
	—	—	—	—	—	1496	—
	—	—	—	—	—	1496	—
2	12	2 'mansiones'	—	—	—	1511, April 1	—
1	6	1 messuagium	—	—	—	1511, April 1	—
1	6	1 messuagium	—	—	—	1497, Mar. 4	—
1	6	1 messuagium	—	—	—	1497, May 12	—
1	6	1 messuagium	—	—	—	1510, April 10	—
1	6	1 messuagium	—	—	—	1510, April 10	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—
1	6	1 messuagium	—	—	—	1509, Aug. 1	—

Page	No. of inclosures	Parishes	Extent inclosed	Objects of inclosure			Condition of inclosers					
				Park	Inclosure	Pasture	Lay lords of manors	Other laymen	Ecclesiastical lords of manors	Other ecclesiastics	Lay tenants	
		<i>Franchise of Wenlock—cont.</i>	acres	acs.	acs.	acres						
64	1	Bentall . . .	20	—	—	20	—	1	—	—	—	
64	1	Bore Asseley . .	20	—	—	20	—	—	—	—	1	
64	1	Brocton . . .	20	—	—	20	—	—	—	—	1	
64	1	Longfelde . . .	20	—	—	20	—	—	—	—	1	
64	1	Astwall . . .	20	—	—	20	—	—	—	—	1	
64	1	Wallerston . . .	20	—	—	20	—	—	—	—	1	
		<i>Hundred of Ford</i>										
65	1	Corston . . .	6	6	—	—	1	—	—	—	—	
65	1	Haburley . . .	12	—	—	12	—	1	—	—	—	
65	1	Dene . . .	20	20	—	—	1	—	—	—	—	
		<i>Hundred of Brymstree</i>										
65	1	Shuffenall . . .	30	30	—	—	1	—	—	—	—	
65	1	Sutton . . .	20	—	—	20	—	1	—	—	—	
65	1	Brocton . . .	20	—	—	20	—	1	—	—	—	
66	1	Knoll . . .	30	—	—	30	—	1	—	—	—	
		<i>Hundred de Bradford</i>										
66	1	Wodcote . . .	12	12	—	—	1	—	—	—	—	
66	1	Soudeley . . .	20	—	—	20	—	1	—	—	—	
66	1	Byrcote . . .	24	—	—	24	—	1	—	—	—	
66	1	Lawley . . .	18	—	—	18	—	1	—	—	—	
		<i>Hundred of Pynhill</i>										
66	1	Potton . . .	40	40	—	—	1	—	—	—	—	
67	1	Boorch . . .	20	—	—	20	—	1	—	—	—	
67	2	Mylford . . .	40	—	—	40	—	2	—	—	—	
		<i>Hundred of Munslow</i>										
67	1	Corffam . . .	40	—	—	40	—	1	—	—	—	
67	1	Downton . . .	40	—	—	40	—	1	—	—	—	
67	1	Weyve . . .	20	—	—	20	—	1	—	—	—	
67	1	Henley . . .	20	—	—	20	—	1	—	—	—	
67	1	Alcunston . . .	20	—	—	20	—	1	—	—	—	
67	1	Midlchop . . .	20	—	—	20	—	1	—	—	—	
68	1	Stone Acton . .	20	—	—	20	—	1	—	—	—	
68	1	Stone Acton . .	20	—	—	20	—	1	—	—	—	
68	1	Long Stanton .	20	—	—	20	—	—	—	1	—	
68	1	Gretton . . .	20	—	—	20	—	1	—	—	—	
68	1	Sutmaston . .	40	40	—	—	1	—	—	—	—	
68	1	? Sutmaston . .	6	6	—	—	—	1	—	—	—	
68	1	Upton . . .	40	40	—	—	1	—	—	—	—	
68	1	Ebdon Burnell .	20	—	—	20	—	1	—	—	—	
		<i>Hundred de Coundeover</i>										
68	1	Longnore . . .	20	—	—	20	—	1	—	—	—	
68	1	Longnore . . .	40	—	—	40	—	1	—	—	—	
68	1	Magna Lethe . .	40	—	—	40	—	1	—	—	—	
61	1	Magna Lethe . .	15	—	15	—	—	1	—	—	—	
69	1	Kenles . . .	80	—	—	80	—	1	—	—	—	
69	1	Belswardyn . .	40	—	—	40	—	1	—	—	—	
69	1	Counde . . .	25	—	—	25	—	1	—	—	—	
69	1	Wolstaston . .	3	—	3	—	—	—	—	1	—	
69	1	Wolstaston . .	14	—	14	—	—	—	—	—	1	
69	2	Lebot Wode . .	20	—	—	20	—	—	1	—	—	
69	1	Deen . . .	20	20	—	—	1	—	—	—	—	

No. of ploughs put down	No. of per- sons ejected	No. of houses decayed	No. of churches decayed	Common rights taken	Date of inclosure	General observa- tions
1	6	1 messuagium	—	—	1509	—
1	6	1	—	—	1509	—
1	6	1	—	—	1509	—
1	6	1	—	—	1509	—
1	6	1	—	—	1509	—
1	6	1	—	—	1509	—
—	—	—	—	—	1514, May 1	—
—	—	—	—	—	1514, May 1	—
—	—	—	—	—	1506, Aug. 1	—
—	—	—	—	—	1509, May 1	—
1	6	1	—	—	1510, Mar. 4	—
1	6	1	—	—	1510, Mar. 4	—
1	6	1	—	—	1510, Mar. 4	—
—	—	—	—	—	1509, Aug. 3	—
2	8	2	—	—	1509, Aug. 3	—
1	6	1	—	—	1512, July 1	—
1	6	1	—	—	1512, July 1	—
—	—	—	—	—	1505, June 1	—
1	6	1	—	—	1505, June 1	—
2	12	2	—	—	1509, July 12	—
2	12	2	—	—	1511, July 1	—
2	12	2	—	—	1511, July 1	—
1	6	1	—	—	1505, April 4	—
1	6	1	—	—	1505, April 4	—
1	6	1	—	—	1505, April 4	—
1	6	1	—	—	1505, April 4	—
1	6	1	—	—	1505	—
1	6	1	—	—	1505	—
1	6	1	—	—	1505	—
1	6	1	—	—	1505	—
1	6	1	—	—	1505	—
—	—	—	—	—	1505	—
—	—	—	—	—	1505	—
1	6	1	—	—	1505	—
1	6	1	—	—	1512, May 1	—
1	6	1	—	—	1512, May 1	—
1	6	1	—	—	1512, May 1	—
—	—	—	—	—	1512, May 1	—
4	24	4	—	—	1512, May 1	—
1	6	1	—	—	1512	—
1	6	1	—	—	1512	—
—	—	—	—	—	1512	—
—	—	—	—	—	1512	—
2	12	2	—	—	1512	—
—	—	—	—	—	1507	—

PRICES OF WOOL

Rogers' 'His. Agr.' iv. 305, 306

		Tod.				Tod.	
		s.	d.			s.	d.
1401-1410	.	9	2½	1491-1500	.	6	0½
1411-1420	.	7	8½	1501-1510	.	4	5½
1421-1430	.	7	5½	1511-1520	.	6	7½
1431-1440	.	5	9	1521-1530	.	5	4½
1441-1450	.	4	10½	1531-1540	.	6	8½
1451-1460	.	4	3½	1541-1550	.	20	8
1461-1470	.	4	11½	1551-1560	.	15	8
1471-1480	.	5	4	1561-1570	.	16	0
1481-1490	.	4	8½	1571-1582	.	17	0

SYNOPSIS OF DATES AND AREAS OF INCLOSURES OF PASTURE AND CONVERSIONS TO PASTURE

Year	Acres	Year	Acres
1486	30	1502	110
1487	62	1503	540
1488	100	1504	280
1489	—	1505	519
1490	140	1506	110
1491	20	1507	622
1492	550	1508	150
1493	140	1509	822
1494	4	1510	343
1495	40	1511	540
1496	62	1512	547
1497	197	1513	30
1498	20	1514	492
1499	60	1515	644½
1500	300	1516	600½
1501	490	1517	170

DATES AND AREAS OF INCLOSURES OF PASTURE AND CONVERSIONS TO PASTURE

Date	County	Place	Area
1486	Staffordshire	Biddulph (?)	Acres 30
1487	Yorkshire, E. R.	Sprotley	62
1488	Cambridgeshire	Cotenham	100
1490	Cambridgeshire	Long Stowe	60
"	"	Steeple Morden	40
"	"	Est Hatley	40
			140

Date	County	Place	Area
1491	Berkshire	Crokeham	Acres 20
1492	Berkshire	Aston Turrold	30
"	Salop	Clopton	120
"	Cambridgeshire	Gamlyngay	400
			550
1493	Cambridgeshire	Malton	140
1494	Staffordshire	The Horecross	4
1495	Berkshire	Yatyndon	40
1496	Gloucestershire	Colm Aylwynes	62
1497	Norfolk	Dereham	20
"	Herefordshire	Parva Cockern	54
"	Staffordshire	Patteshill	3
"	Berkshire	Chilvey	20
"	"	Compton	60
"	Salop	Kynston	20
"	"	Downton	20
			197
1498	Berkshire	Burton	20
1499	Berkshire	West Sandeford	60
1500	Gloucestershire	Dydcote	300
1501	Herefordshire	Ffalley	360
"	Staffordshire	Haywood (?)	30
"	Berkshire	Bastelden	20
"	"	Wargrave	40
"	"	Marcham	40
			490
1502	Staffordshire	Chedull	60
"	Berkshire	Est Hanney	20
"	"	Wolhamton	20
"	Salop	Willer	10
			110

Date	County	Place	Area
1503	Herefordshire . . .	Walford	Acres
"	Gloucestershire . . .	Thornebury	240
			300
			540
1504	Cambridgeshire . . .	Shyngey	280
1505	Norfolk	Skernyng	25
"	Staffordshire	Loxley	23
"	Isle of Wight	Stepelhurst	55
"	Berkshire	Chivela	20
"	"	Dudcott	20
"	"	Pangbourn	20
"	"	Tyleherst	30
"	Salop	Potton	40
"	"	Boorch	20
"	"	Weyve	20
"	"	Henley	20
"	"	Alcumston	20
"	"	Midlehop	20
"	"	Stone Acton	20
"	"	Stone Acton	20
"	"	Long Stanton	20
"	"	Gretton	20
"	"	Sutmaston	40
"	"	Sutmaston (?)	6
"	"	Upton	40
"	"	Ebdon Burnell	20
			519
1506	Isle of Wight	Esthamlode (?)	50
"	Berkshire	Bedon	40
"	Salop	Dene	20
			110
1507	Norfolk	Kempson	80
"	Berkshire	C. mpton	200
"	"	Shalyngford	112
"	"	South Morton	20
"	Gloucestershire	Dykston	190
"	Salop	Deen	20
			622
1508	Norfolk	Myleham	60
"	Berkshire	Ardyngton	50
"	"	Appelford	40
			150

Date	County	Place	Area
			Acres
1509	Berkshire	West Sandeford	40
"	Gloucestershire	Hydecote Bertram	340
"	"	Dumbleton	60
"	Salop	Cleastaunton	20
"	"	Ditton	20
"	"	Weston	20
"	"	Potton	20
"	"	Burton	20
"	"	Larden	20
"	"	Posenall	20
"	"	Bradley	20
"	"	Bentall	20
"	"	Bore Assheley	20
"	"	Brocton	20
"	"	Longfelde	20
"	"	Astwall	20
"	"	Wallerton	20
"	"	Shuffenall	30
"	"	Wodcote	12
"	"	Soudeley	20
"	"	Mylford	40
			822
1510	Norfolk	Colkryke	16
"	Staffordshire	Chellyngton	5
"	"	Adbaston	20
"	Berkshire	Grove	30
"	"	Westlockhange	20
"	"	Harewell	20
"	"	Wyngheld	20
"	Gloucestershire	Meene	32
"	"	Nawesley	50
"	Salop	Ledome	20
"	"	Le More	20
"	"	Normycote	20
"	"	Sutton	20
"	"	Brocton	20
"	"	Knoll	30
			343
1511	Isle of Wight	Hassebourne	100
"	Berkshire	Ffarnburgh	20
"	Gloucestershire	Camden	180
"	Cambridgeshire	Est Hatley	100
"	Salop	Boculton	40
"	"	Newton	20
"	"	Corffam	40
"	"	Downton	40
			540

314 TRANSACTIONS OF THE ROYAL HISTORICAL SOCIETY

Date	County	Place	Area
1512	Staffordshire	Brycheford	Acres
"	Hampshire	Erleston	40
"	Berkshire	Upton	100
"	"	Esthendred	20
"	"	Est Gyng	24
"	"	Greneharn	30
"	Salop	Byrcote	26
"	"	Lawley	24
"	"	Longnore	18
"	"	"	20
"	"	"	40
"	"	Magna Lethe	40
"	"	Kenles	80
"	"	Belwardyn	40
"	"	Counde	25
"	"	Lebotwode	20
			547
1513	Berkshire	Aston Turrold	30
1514	Gloucestershire	Parua Sodbury	260
"	"	Charfeld	170
"	Salop	Purselowe	30
"	"	Coston	10
"	"	Brynslowe	4
"	"	Corston	6
"	"	Haburley	12
			492
1515	Norfolk	Colkryke	26
"	"	"	30
"	"	"	43
"	Herefordshire	Orleton	15
"	"	Yarpole	30
"	Berkshire	Drayton	20
"	"	Harwell	100
"	Gloucestershire	Hyll	11
"	"	Thornebury	163
"	"	"	180½
"	Salop	Bucknell	26
			644½
1516	Staffordshire	Cumberforde	25
"	"	Cumberforde	4
"	Berkshire	Fulscote	240
"	"	Bukland	40
"	"	Hartley	15
"	Gloucestershire	Duram	240
"	Salop	Hopeshaye	40
			600½
1517	Berkshire	Chadleworth	40
"	"	Berkeham	100
"	"	Aston Turrold	30
			170

PRESIDENTIAL ADDRESS

BY THE RIGHT HON. SIR MOUNTSTUART E. GRANT DUFF,
G.C.S.I., President.

GENTLEMEN,—When you were good enough to elect me last year to the post which gives me the privilege of addressing you on this occasion, the honour came rather unexpectedly, and I thought I did not know enough about the circumstances, prospects, and possibilities of the Society to make it wise for me to speak to you at any length before I had had a year's experience of its working. I have now had this, and that is the reason why I have ventured to ask you to meet me this afternoon.

The Royal Historical Society had the advantage of commencing its work under the nominal guidance of two very eminent Presidents: Mr. Grote was a great historian, while Lord Russell was a not inconsiderable maker of history. When, however, they became connected with us, they were both very old men, their work was done; and it would not have been reasonable to expect from them much more than the sanction of their great names. It was not till the days of their successor—Lord Aberdare—that the President took an active part in the direction of our affairs. When he came to the rescue, he was not young, and might fairly have considered that he had earned repose; but no man among his contemporaries has been less sparing of himself or more zealous in the discharge of every duty which he could with any sort of

reason be asked to undertake. A poet, who spoke with full knowledge, said of him some time ago—

What shall be written to the man
Who through life's mingled hopes and fears
Attains to-day our little span
Of seventy years?

What else but this? Brave heart, be strong,
Be of good hope—life holds no fears,
Nor death, for him who strives with wrong
For seventy years.

Live, labour, spread that sacred light
Of knowledge which thy soul reveres,
Fight still the old victorious fight
Of seventy years.

Many *lustra* spent in high and varied office and in both branches of the legislature had left, as they leave him, full of interest in those great subjects which are the very eyes of politics—Geography, and its sister History, which brings us together in this hall. He would, I am sure, agree with me in thinking that the writer of the preface to the 'English Historical Review' did not at all overstate his case when he said that he believed that history, 'in an even greater degree than its votaries had generally recognised, is the central study among human studies capable of illuminating and enriching all the rest.'

If this be true, it becomes a matter of first-rate importance to consider what ought to be its place in education, and this Society can be hardly better occupied for an hour than in attempting to arrive at an answer to that question. In order to give to it anything like a satisfactory answer, we must first know precisely what we mean by History, and what by Education.

I understand by History, in the sense in which I am at present using that term, the record of those events which have been chiefly instrumental in creating the state of affairs with which we are now dealing on this planet, in so far as they have been brought about by human agency; together

with the record of such other facts as, although their consequences may not be traceable in the state of affairs into which we have been born, are nevertheless such as wise men will be unwilling not to know.

The first of these records has to do with History chiefly in its scientific, the second chiefly in its literary aspect. Having regard to this distinction, we may say that our first object in teaching History should be to explain the present, and to put the learner in possession of facts which may guide him in forming his opinions as to the changes which changing circumstances may require in a world where nothing continueth in one stay ; while our second object should be to store his mind with images, sayings, and examples which may be full-welling fountain-heads of right sympathies, of pure affections, and of all nobleness.

By Education, again, in the sense in which I am at present using the term, I understand the process by which we endeavour to enable men or women to make the most of the faculties that have been given them, due regard being had to the positions which they occupy in the social scale, or are reasonably likely to attain to. It follows from this definition of education that there must be a great many varieties of it, and that the amount of History which it may be desirable for the educator to impart to different individuals may be expected to vary not a little. To prevent confusion, however, I shall speak almost exclusively of the amount and kind of History which it is desirable to teach to the average man who proposes to carry on his education up to the age at which it is usual to take the degree of Bachelor of Arts in an English University, and who aims at occupying with credit a good place in society. I do not mean to speak of persons who desire to devote themselves to History, either as writers, lecturers, or professed students, nor shall I say anything of those who are training especially for statesmanship or diplomacy, though it was for them that the first Modern History School at Oxford was founded in the days of George the First. I know no reason why the historical training given

to women who wish to be well educated should differ in any respect from that given to men of the same age.

We all know that the faculties which first develop are usually the observing faculties, and that the only reasonable systems of education are those which take advantage of that law of human nature, by gratifying and stimulating the curiosity of the pupil, until a very fair knowledge has been obtained of what, for want of a better name, are called 'common things,' a knowledge which involves the acquisition of no small number of scientific facts. Side by side with the desire to know about our immediate surroundings a taste for poetry is often awakened, and use should be made of both these tendencies in preparing the mind for historical studies. The second leads directly to History, though by a postern door; the first to her twin sister, Geography.

Surely one of the first things which any tolerably rational creature has got to do is to answer the question 'Where am I?'

We might take a lesson from one of the commonest of our domestic animals. Bring a cat into a drawing-room, and what does she proceed to do? Why, to examine every article of furniture, and come to some conclusion or other, enlightened or unenlightened, about it. Carry some new article into a room with which she is acquainted, and she will not rest until she has examined and settled her views about it. So with tribes which have made but little progress in civilisation. I have found myself among people who were still on the lowest steps of the ladder of learning, who could not count above twenty, but who had a minute acquaintance with the trees and shrubs and animals of their jungles. The hideous process which we describe as a good education too often kills that greatest intellectual possession—'la grande curiosité.' Far from doing so, we should take advantage of the natural instinct of curiosity, stimulate children to know all about their own neighbourhood, and then pass on from that to the county, the district, the country, and so to Universal Geography. They would not, however, have gone very far in geographical studies before they began to ask questions which could only

be answered by an appeal to History, and these two studies, throwing floods of light each upon the other, should be made the staple of all secondary education in this country, in so far as it is not directed chiefly towards Physics, Chemistry, or Mathematics, which for obvious reasons it must often be.

Much ink has been expended on the controversy whether History should be looked upon as a branch of science or as a branch of literature. It is the old story of the shield with two sides: if we look at History from one point of view, it appears as a succession of problems; if we look at it from another, it appears a pageant, a succession of pictures—sometimes sad, sometimes brilliant. It is, however, from the side on which it looks like a succession of pictures that general History is approached with most advantage.

To penetrate into that kingdom the child must usually take a great passport of poetry, although the history of his own country may be very well approached from the mechanism of the parish, the county, the town, or the electoral subdivision. However he may approach History, whether by the gate of Poetry or Geography, and with whatever portion of the realm which he enters he may chiefly occupy himself, is all one to us.

The Royal Historical Society claims for its domain everything that men have done. No exposition of facts can be too picturesque for us, provided always the facts have occurred; that they are, in other words, pearls, not mock pearls, of History. On the other hand no disquisitions on the philosophy or science of History can be too abstruse, provided always they have a real basis, and are not, as is far, far too often the case, airy nothing spun out of some busy brain. What can be more natural than that men who have seen the immense advance which the researches of Mr. Darwin have brought about in our knowledge of the material world should imagine that in the theory of Evolution they have a magic wand which, when they touch with it the accumulated facts of History, may enable them to turn that accumulation into

a science? Perhaps it is so, but I am afraid we are still in the same difficulty which the German poet foresaw with reference to the philosopher's stone. Evolution may be the wand of the magician, but the magician is wanting to the wand. Before Biology began to attract so much attention, some writers borrowed for the use of the science of History a different set of phrases from other branches of human knowledge, and Mr. Mill wrote of Social Statics and Social Dynamics. All such phrases, however, although they have the authority of great names, seem to me only to darken counsel by leading students of History to expect a great deal more than they will obtain. Heaven knows, they will obtain enough without cherishing false hopes!

I say, then, weave into History as much philosophy as you please, and as much poetry as you please, provided always you do not torture facts to suit your immediate purpose. Wisely did my predecessor insist on the importance of keeping the work of this Society catholic. Not long ago one of our number proposed that we should make it our principal object to discuss what he described as 'Historical Origins,' rather than the details of comparatively minor historical events. I say let us have both. He desired, amongst other things, that we should discuss the origins of Egyptian, Chaldean, and Chinese civilisation, besides ten other similar subjects. By all means! I suppose we should welcome with enthusiasm really good papers on all subjects which he enumerated, including the pre-Aryan civilisation of India, a most uncommonly hard nut to crack. I am sure I hope before the obituary notice of the Historical Society comes to be written that we shall have had papers on every one of Mr. Glennie's suggested subjects, and that we shall not be deterred from receiving them with respect by the natural criticism that our proper sphere is the historic, not the prehistoric. Another high authority—Mr. Herbert Spencer—declares that the only kind of History which is of any use is Descriptive Sociology. This view appears to me not as inadequate as the one I have just been discussing, but

extremely inadequate. Far be it from me to deny that historians have till recently given us too little of the information which Mr. Spencer chiefly affects, and that a great deal too much importance has been attached by readers of History to facts which, if not unimportant, are important almost exclusively to specialists, such as the strategy which led to victory or defeat in a particular campaign, or the tactics which won or lost for this or that commander a particular battle. Still, Descriptive Sociology would be but a chaos to those who did not acquire what I am insisting on, a knowledge, that is, of the broad facts of human history, the kind of knowledge which is necessary if the annals of our race are to be to us anything better than

A mighty maze and all without a plan.

The truth is, that everything which can throw new light on the biography of nations, or on the lives of individuals who have been directly or indirectly potent in influencing the fate of nations, belongs to our sphere of action, though it is indisputable that some facts are immensely more important than others, and that some departments of History—all that relates to industrial and economic change for example—have been unduly neglected. The first merit of the historian, as of the statesman, is aptness to be right, and that is the most useful history which brings the most important things into the boldest relief and stamps them deepest on the memory.

To return, however, to the pupil who is approaching the study of History. We must presume that the inevitable preliminaries of all education have been got over, that he can really read, not according to the contemptible standard with which, in this age of chatter about popular education, people are too often satisfied, but that he can read aloud sufficiently well to be listened to by an educated person without disgust; that he can write, slowly of course at first, a hand which will become a clear one; that he knows those few and simple rules of Arithmetic which he is likely to have to employ under the

ordinary circumstances of life; and that he has that sort of glimpse into the sciences of observation, or some of them, which must inevitably result from an intelligent acquaintance with the objects which immediately surround him.

It would be desirable that to these supremely necessary acquirements should be added some acquaintance with one or more foreign languages, gained not only through the eye but through the ear, but the possibility of giving that must naturally depend on circumstances.

This foundation having been laid, and previous acquisitions being perpetually revised, the next few years should be given by those who can carry on their education to one or two and twenty, chiefly, but by no means exclusively, to Geography and History. Mr. John Stuart Mill, in his famous inaugural address at St. Andrews, puts forward a very different view. He says:—

Who ever really learnt History and Geography except by private reading? And what an utter failure a system of education must be if it has not given the pupil a sufficient taste for reading to seek for himself those most attractive and easily intelligible of all kinds of knowledge!

And again:—

But of the mere facts of History, as commonly accepted, what educated youth of any mental activity does not learn as much as is necessary, if he is simply turned loose into an historical library?

The answer to this is, that unhappily we do not, at least in Great Britain, meet one educated youth in five hundred who is even tolerably acquainted with the mere facts of History as commonly accepted. Mr. Mill, as was too often the case, was generalising hastily from his own idiosyncrasy, which, in spite of his splendid intellect, constantly led him wrong when, stepping out of the realm of abstractions, he found himself dealing with things concrete, and more especially with that very curious animal—man. It was this peculiarity which made him so odd, and even pathetic, a figure in the House of Commons, although he had done so much to teach

the teachers, and had been one of the seminal minds of his own generation, as he himself said that Coleridge and Bentham had been of theirs. Mr. Mill fancied that History was a much easier study than most people find it. Others make the opposite mistake of over-rating its difficulty. They say, 'What! are you going to plunge children into the labyrinth of ten thousand controversies?' Not at all!

Comte, quoted by his disciple Mr. Cotter Morrison, says very truly 'that the most important facts of History are the least dependent on being minutely verified for their true appreciation.' It is these facts, and these only, which I desire to get in the first instance into the brains of youth. I want boys, and girls too, for that matter—in the happy phrase of a German professor, quoted in an admirable paper read to us by our friend Mr. Browning, to which I shall have to refer again—'to know their centuries'; to know, that is, the great epoch-making facts of General History, and have a somewhat fuller, but still very outline, knowledge of the history of their own country. This should certainly be accomplished by the age of fourteen.

There is no difficulty in finding sufficiently good books for the English part of the business; indeed, there are so many that I will not attempt to choose amongst them; but there is great difficulty in pointing to any brief and simple work on the general history of the world to be got up thoroughly before fourteen. It seems to me, indeed, that our Society might do a good deal worse than offer a prize for such a book. As things now are, the English teacher who desired that his pupils should 'know their centuries,' would have to base his teaching upon works intended for a later age. But, it may be asked, 'How is room to be found to enable us to devote the lion's share of school or school-room time to History and Geography?' Simply, I answer, by considering what knowledge is most worth, by postponing the less important to the more important, and by taking things in their natural order. Up to fourteen no difficulty should arise. All I should demand of any fairly clever boy or girl at that age

(I am speaking, of course, neither of geniuses nor of idiots) would be—

(1) That he or she should read English aloud clearly and agreeably.

(2) Should write a large distinct round-hand.

(3) Should be thoroughly expert in the most ordinary rules of Arithmetic, especially compound addition.

(4) Should be trained from earliest infancy to use his or her powers of observation.

(5) Should have gathered some little acquaintance with what is most valuable in such portions of the English Classics as are suitable to early life—a very small fraction of them, I need hardly say; but the sooner the habit of reading the best books can be formed, the better.

(6) Should be able to translate, *ad aperturam libri*, from a simple French or German book. When circumstances are favourable I should like young people at fourteen also to speak, at least, French fluently.

(7) Should know enough of drawing for purely practical, not artistic, purposes, and enough if possible of music to increase their enjoyment of it.

(8) Should have a sufficient knowledge of English Composition to be able to write a decently clear and grammatical account of anything they may have seen.

Every one of these accomplishments can be acquired by the age of fourteen without making it in the slightest degree difficult to give the lion's share of time for the last three or four years to laying the foundation of a knowledge of History and Geography, that is to say, of the theatre in which man has acted and of the drama which he has performed.

It would be idle, and indeed absurd, to ask for any large knowledge of either History or Geography at this time of life. If some good school Geography, say Chisholm's junior one, or any other, some good skeleton History of the World, and some small History of England, had been thoroughly mastered, it would be quite enough. I consider that under no circumstances whatever should any attempt be made to

commence either Latin or Greek until fourteen, though wherever English is decently taught, that is, wherever all derivations are carefully mastered, a great number of Latin and Greek words will have been learnt incidentally before the age of fourteen. Mathematics, too, should be utterly banished from education before that age, unless in those exceptional cases where great mathematical ability can be divined, as it often can early. The possession of special and extraordinary gifts takes their possessors quite out of the category of those about whom I am speaking.

At fourteen I think that boys who wish to have every educational advantage should, unless they have a pronounced turn for Science and no strong turn for Literature, begin the ancient languages, and should continue to study them until they have read whatever is supremely best both in Greek and Latin. In order, however, that they may do this without sacrificing even more important things, care must be taken first to banish from classical teaching, where the object is to make men of the world and not specialists, everything that is not absolutely necessary; secondly, to teach the ancient languages in the closest connection with their history.

In order to comply with the first of these conditions, all attempts to write in the ancient languages must be peremptorily discarded, but Greek should be taught as what it is, a spoken language. Nothing must be read in the originals but what is not only admirable but so admirable that no one can be said to be educated, up to the highest standard of his time, who has not read it. By a man educated up to the highest standard of his time I mean one who has a general notion, correct as far as it goes, of the material and moral world by which he is surrounded, who knows more or less how it came to be what it is, and who is acquainted with the very best things that man has said or sung.

It is only, however, a minority of young people before whom it is reasonable to put so high a standard as this. A great many have no turn for Literature at all; then why, in the name of folly, torture them with Latin or Greek, or with

any other language which is not likely to be actually and directly useful to them in their passage through life? It seems to me that the learning of Latin and Greek is a luxury which should be kept for those who materially and mentally are able to afford luxuries.

The idea that there is any special discipline for the mind to be got out of the study of the Classics is mere nonsense, a cleverism invented by some *esprit faux*, and then circulated by puzzle-headed or interested persons to give a false air of utility to a system which can be explained and fully excused as a legacy from the past, but which, like some other legacies from the past, has only historical right on its side—not right reason. There are two all-sufficient reasons for teaching the Classics, without pressing bad ones into the service. In the first place, they enshrine a good deal of the best which man has said or sung; in the second place, without a considerable acquaintance with them a great deal of the moral world surrounding us is very imperfectly intelligible.

I used a few minutes ago the phrase 'supremely best.' There is a good deal of superstition, and of what a divine once called 'belief in believing' in the common estimate of the Classics. It is high time that some great scholar, who has a wide knowledge of modern literature, and is also a man of the world, should take the trouble to tell our youth what they must read in the original, what they may read in translations, and what they need not read at all, due account being taken of the ever-increasing amount of good literature and the wise words of Armstrong:—

Faith I am not clear,
For all the smooth round type of Elzevir,
That every work which lasts in prose or song
Two thousand years deserves to last so long.

Bifurcation should take place at fourteen, when those who show a strong literary turn, and are able to afford a long education, should, as I have said, begin the two ancient languages,

while others who propose to go into the Army, or any of the innumerable callings for which Mathematics are indispensable, should give to them and other cognate sciences exactly the same amount of time which the others give to Greek and Latin; but in both divisions of our schools, from fourteen to eighteen, a considerable amount of attention should be given to History and Geography. For the citizens of a world-wide empire like this it is simply ridiculous that they should not be equipped with a kind of knowledge which, while it is educative in the highest degree, supplies instruction without which it is impossible, as things now are, to order wisely either our public or our private affairs.

The old-fashioned Geography, which consisted of little more than lists of places and names, is, if not dead yet certainly dying. The newer manuals of Geography are becoming manuals of earth-knowledge, closely connected with Physical Science on the one hand and with History on the other, worthy, in fact, of the impetus given by Carl Ritter to this branch of knowledge. No school intended for the upper or middle classes should be without one or more teachers of Geography, and one or more teachers of History, according to the number of their scholars. In neither subject can we afford to do without the services of a thoroughly competent living teacher, but care should be taken not to demand too much. As to Geography, I should be perfectly satisfied, if, on leaving school, say between eighteen and nineteen, the average of young people had followed a good course of lectures and could pass a reasonably stiff examination on a well-compiled book of Physical and another of General Geography. I will mention two which seem to me very good and sufficient, though there may, for all I know, be others better. The first is an American book, 'Eclectic Physical Geography,' by Mr. Russell Hinman, published by Sampson Low and Co.; the second is Chisholm's School Geography, published by Messrs. Longman. Both are beautifully illustrated, and neither extends to 400 pages.

I should like too to say just one word for Topography—

so potent an aid to the remembering of great events. That leads me to History. As to the manner in which it should be taught in schools there is really nothing to add to the excellent paper, already referred to, which our distinguished colleague Mr. Browning read before the Society in 1887, and which is published in the fourth volume of our new series. Mr. Browning dwells especially upon the great importance of lectures, of English essays written by the pupils on the subjects of the lectures, and on an ascending series of books to be placed in the pupils' hands—first a skeleton book, secondly a text-book, thirdly a hand-book. A good many of his remarks apply to those who show some special interest in or aptitude for History, rather than to those about whom I am chiefly thinking, in whose ranks, as I have said, are included all those who mean to carry on their education to the usual end of the University course, with the exception of persons who have absolutely no turn for History at all, and such there no doubt are: boys who have the same utter abhorrence of the subject as the late Dean of Westminster, a born historical student, if ever there was one, had of Mathematics. There is no more foolish waste of time than to go on teaching, when you have once found out that the individual with whom you have to deal has not the faintest glimmer of interest in the subject which you attempt to teach him. And yet how constantly it is done!

The next question which arises is, To what History must the four or five years after the age of fourteen be chiefly given? First, of course, there must be the general history of the world, read in a somewhat fuller compendium than that which will suffice for the wants of children under fourteen. To find such histories in Germany would present no difficulty, but to find such a history in England is a very different affair.

I really know of none published in this country; but there is an American book which may conceivably have been suggested by Mr. Freeman's excellent 'Sketch,' and is quite sufficient for all practical purposes, by Dr. Fisher, a professor

at Yale College, called 'Outlines of Universal History,' and published by Ivison and Co. Dr. Fisher says at the commencement of his preface:—

In writing this volume I have aimed to provide a text-book suited to more advanced pupils. My idea of such a work was, that it should present the essential facts of History in due order and in conformity to the best and latest researches; that it should point out clearly the connection of events and of successive eras with one another; that through the interest awakened by the natural, unforced view gained of this unity of History, and by such illustrative incidents as the brevity of the narrative would allow to be wrought into it, the dryness of a mere summary should be as far as possible relieved; and that, finally, being a book intended for pupils and readers of all classes, it should be free from sectarian partiality, and should limit itself to well-established judgments and conclusions on all matters subject to party contention. Respecting one of the points just referred to, I can say that, in composing this work, I have been myself more than ever impressed with the unity of History, and affected by this great and deeply moving drama that is still advancing into a future that is hidden from view. I cannot but hope that this feeling, spontaneous and vivid in my own mind, may communicate itself to the reader in his progress through these pages.

This is a high aim, and in justice to Dr. Fisher I must say he has worked up to it. It is very curious and very far from creditable that we in England should be obliged to cross the Atlantic to find a proper book to be used as a Manual of Universal History in our higher schools and colleges; but the very idea of History being one long drama seems to be dead in this country. It will be a good piece of work done if this Society can recall it to life.

At this stage of their training students should have their attention very carefully directed to Biography, and, above all, to the lives of those great men who have been chiefly instrumental in forwarding the onward march of humanity. I cannot point to any work which precisely meets all the requirements of the case. It must be short; it must contain ample references to fuller accounts of the persons enumerated in it; it must not be arranged alphabetically, but according to the

sequence of time and of the various phases of civilisation dealt with ; and it must be as neutral in tint as possible. All these conditions, save the last, are very fairly fulfilled by the *New Calendar of Great Men* lately edited by Mr. Frederic Harrison. This is a capital book, which ought to be in the hands of all educated people who can make due allowance for wrong omissions and wrong admissions, but it is, in the nature of things, permeated by Comtist ideas, and its use in schools would naturally give rise to numerous complaints. A judicious master could and would, however, make use of it. It is not every boy who is inspired at sixteen to read the '*Biographie Universelle*' through, and to finish his task in a few weeks (a thing which once happened within my own knowledge), but a taste for Biography is apt to be early developed, and advantage of that circumstance should be freely taken to give increased life and colour to purely historical study.

After the history of the world, and in some, though only in some, respects more important for English students, is the history of their own country. I suppose the best authorities would tell us that up to the end of the reign of Henry VII. it had better be read by young people over fourteen in the *History of Mr. York Powell*, and that after that period there are Dr. Bright's and other works to choose from, any one of which might be sufficient for the purpose, Mr. Green's short history being read after the other two.

Next to English History must come for all Western Europeans who wish to be thoroughly educated the history of the three great races to which we owe our civilisation, viz., the Greeks, the Israelites, and the Romans. From the first came Art, Science, Philosophy, and Literature ; from the second, Religion in all its higher forms, together with a great deal of Poetry ; from the third, a very large share of the influences which we sum up in the words—Law and Administration.

The teaching of these three great histories should be in the hands of competent living teachers, whose duty, in dealing with boys on the classical side, should be to work them in with that portion of classical teaching which consists in the

acquisition of the power to read Greek and Latin easily and rapidly. For the attainment of this end no pains should be spared, and every sort of help and appliance given, just as much, and only as much, grammar being acquired as is indispensable, care being taken that the easiest writers should be attacked first, but at the same time that no line should be read which it would not be desirable for the pupil to remember to his life's end. No inferior writer should ever be studied simply because he is easy, and the use of translations should not only be encouraged but enforced until they can be easily dispensed with. Greek should be treated as a language changing slowly and gradually from the Homeric period to our own, but still existing. The later Greek History and Literature, however, should, except in the merest outline, be kept for the University. The histories to which, I suppose, a good teacher of Greek in this country would chiefly direct the attention of his pupils would probably be Grote and Curtius; but it would be a great deal too much to expect boys on leaving school to pass an examination in either of these works. Enough would be done if they retained a good recollection of their teacher's lectures, and could pass a fair examination in some short Greek history, say 'Smith's Student's Greece.' Mr. Oman's is, I suppose, the one most up to the latest lights, and it is to be hoped that its able author will soon add a second volume, taking care in the concluding chapters, however briefly, to bring down the History of Greece to our own days. A great deal is gained if we can once make young readers understand that the History of Greece is continuous and it is quite possible to do this without indulging in any silly phil-Hellenic enthusiasm, or, on the other hand, speaking, as someone did, of a people which has a great many merits, as composed 'of the same *canaille* as in the days of Themistocles.' One cannot read the last page of Mr. Oman's book without seeing that he feels that the period of Greek History which begins with Alexander the Great is in many respects its most interesting portion.

Very significant is the anecdote which he tells of that

most remarkable man saying, when he heard of some five thousand people having been killed in the Peloponnese: 'While we have been conquering the Great King there has been, it seems, some battle of mice in Arcadia.'

The teaching of Jewish History would present some obvious difficulties; but great progress has been made, and probably the time is not far off when it may be taught intelligently without fear of giving too much offence. A teacher who knew his business would have in his hands no lack of excellent guides in French, German, and even English, but I know not what text-book or hand-book to recommend. The Old Testament part of the excellent work called 'The Bible for Young People' is very lengthy, and is written as much for edification as for information; while Mr. Robertson Smith's masterly paper on Israel in the 'Encyclopædia Britannica' is too short and too closely packed. By the time that it has become a truism that the laws governing all History are precisely the same, and that the methods which lead to truth in examining the annals of one ancient nation are likely to lead to it in examining those of another, the defect will no doubt have been supplied.

In dealing with Roman History the teacher who has to keep close to facts will have an easier task. No one, I believe, now thinks it necessary to die in the last ditch for Remus, Romulus, and the she-wolf. Here, I suppose, the teacher would encourage his pupils to read many parts of Mommsen, Merivale, and Gibbon, while the text-book might perhaps be the General Roman History of the second of these authors. It is high time, however, that the results of recent researches in this field should be incorporated in a single volume. To find time for this moderate amount of historical and geographical study ere the eighteenth birthday is reached, while keeping up what I have already insisted on as necessary to be learnt before fourteen, obtaining some notions of the laws of health, acquiring a good deal of any one natural science, and enough of several sciences to excite an interest in them, would be simple enough. Just think of the time that would

be saved if the whole irrational system of Greek and Latin composition, and the hardly less irrational habit of learning reams of verse by heart, with the object of improving that same precious composition, were thrown behind the fire. Some portion of the time now wasted over rules of Arithmetic, which the people of whom I am thinking are never likely to have to use in the whole course of their lives, might advantageously be given to acquiring a sufficient knowledge of book-keeping to enable them to understand the accounts submitted to them. Nowadays, for all they learn at school, some of our large proprietors are in a position of a gentleman whom I knew in India. He had a nice compact little estate about the size of the county of Surrey; he spoke a language of Aryan origin, but his accounts were kept in a language of Dravidian origin, with which he had no acquaintance whatsoever.

I have provided already for the case of those who have a strong turn for Mathematics and little turn for Literature. In the case of the others it will be quite enough that they should learn just enough Mathematics to know what mathematical reasoning means. For the ordinary purposes of life some simple treatise on Logic, say that of Jevons, would be much more useful. Greek and Latin cannot properly be learnt without endless translating from those languages into English, nor could History be seriously studied without the writing of a great many essays. English composition is thus provided for, and I really do not see what additional study need be insisted upon before the examination on leaving school, which ought to replace matriculation. It should embrace all the subjects I have mentioned, and need, I think, embrace no others; but I should never dream of closing the University to persons who wished to go there to devote themselves to any particular study, merely because they could not pass their leaving examination. All that would be reasonable for the University to do would be to require that such persons had a sufficient preliminary acquaintance with the subject they had selected to make the teaching they would receive within its

walls likely to be valuable to them. It is impossible to give too much encouragement, in the final stage of education, to varieties of aptitude.

I pass now to History and Geography at the University. I do not know that the knowledge of actual facts to be required at the end of the course need be much greater, but both subjects should be studied in a larger and more philosophical way than is possible at school. Great authors, hitherto only known by extracts, should be sometimes wholly, sometimes only partially, but always more largely read; more attention should be given to the history of human thought on philosophical and economical subjects, and every endeavour made to bring within the pupil's view the best that has been written on the subject under treatment. Exactly the same course should be taken with Greek and Latin.

At school much would be read in these tongues which is read now, though much would be omitted and some things added; but at the University everything that is of first-rate interest in either of them should be read, some attention being given even to the Latin of the Church, and the study of Greek continued right down to our own days, by the help of such a book as Mr. Geldart's and in connection with Finlay's Histories. So it should be, *mutatis mutandis*, with French and German, and with every study which was not left behind amongst childish and school-day things. Everywhere History, General History, History considered as one great continuous broadening river, should be present and appealed to.

Filled with this idea I turned to the statute governing the Honour School of Modern History at Oxford to see how far that great University upheld the principle for which I am contending. The first thing which occurred to me was that it seemed very unphilosophical, as well as practically inconvenient, to have a separate Honour School of Modern History at all. Why should Modern History be separated from Ancient History? Is it possible to understand the first without an adequate knowledge of the other; and what guarantee

is taken before a man enters the Modern History School that he has an adequate knowledge of Ancient History? Next I see that the examination in the School of Modern History is always to include—

- (1) The continuous History of England.
- (2) General History during some period selected by the candidate from periods to be named from time to time by the Board of the Faculty.
- (3) A special portion of History or a special historical subject, carefully studied with reference to original authorities.

Further, every candidate is required to have a knowledge of Political Economy, of Constitutional Law, and of Political and Descriptive Geography.

When I turn to the regulations of the Board I find that the examination in the History of England is to be on continuous Constitutional History, continuous Political History to the beginning of the reign of the Queen, and on the History of any one of seven periods to be studied in detail. All that seems very good for those who are making a special subject of History, but it does not in the least meet the particular wants of those for whom I am pleading, that is to say, the great army of people who aspire to be well educated before they scatter to their work in life. Nor is the case in the least mended by the arrangements with regard to the teaching of General History. These involve the study of any one of seven periods of History, viz.: from A.D. 476 to 1085, or from 936 to 1272, or from 1272 to 1519, or from 1414 to 1610, or from 1610 to 1715, or from 1715 to 1815, or from 1763 to 1852, each period being studied in connection with a period of English History pretty nearly corresponding to it, and also to be studied in detail. All that is again very well, but it is too much to expect that the people of whom I am thinking should give themselves to this kind of study; and if they did, it would not be half so useful to them as a much less detailed knowledge of General History.

I know, of course, that the answer which the Board would

give is, that they wish to discourage superficial knowledge. In this they do rightly, but no person in his senses advocates superficial knowledge. What is wanted is a knowledge of the great landmarks of History from the beginning of time to our own day, perfectly accurate as far as it goes. When once this has been obtained, literature, travel, contemporary politics, the exigencies of public, commercial, or other business, of Law and of the Church, indeed of every profession or calling will be perpetually stimulating those who have a good outline knowledge of History to study more minutely various portions of it. That historical students, properly so called, should carefully study special subjects with reference to the original authorities is the most natural thing in the world; that they should eventually devote themselves to particular periods is also as it should be. But ought they not, before they do this, to have an outline knowledge of all History? And if not, why not? One result of this splitting of History into periods at the University is that the same course is adopted at schools, and we may any day hear a boy or girl in reply to some very simple question say, 'Oh! that is not in my period.' Surely a system which encourages such absurdities is, if not a bad, at least an imperfect system.

It is to be presumed that the Board of the Faculty of History at Oxford had some good reason for arranging their programme of studies as they have arranged it; but admitting that it is so, ere a young man is permitted to present himself for Honours in the Modern History School would it not be desirable that he should pass an examination in the outlines of General History, and might not this examination be made subservient to the wants of those whose interests I am advocating?

I do not know whether there are any tutors or lecturers now in Oxford who devote themselves to General History as a whole. If there are, I suppose their teaching must largely consist of calling the attention of their pupils to the parts of various writers which it seems most important to them should be read, and of taking care to find out by oral or written

examinations, and by prescribing the writing of essays, that their recommendations are duly attended to. For those who have not the inestimable advantage of a living teacher the book I have already mentioned—Fisher's 'Outlines'—would be very useful on account of its bibliography; so during the University period, though hardly sooner, would be another American book called 'Institutes of History,' by Dr. Andrews, of the Cornell University. It is written in Telegraphese, and a strange sort of Telegraphese, but it contains an excellent bibliography and is full of pithy remarks. To be able to use it the student should have an adequate knowledge of French and German, but his possession of that is presupposed and would be tested by his examination on leaving school. If once attention could be directed to the enormous importance of acquiring a general knowledge of History, we should soon have books of our own; but I am afraid that the detestable habit of splitting up History into periods—detestable I mean in relation to the wants of the ordinary educated gentleman—will last long. The more's the pity! for the best chance we have of building up of a national future which shall not shame our past is that the large increasing and, from the nature of things, immensely important class for whom I am speaking should be thoroughly acquainted with all that they ought to know in their capacity of citizens. Democratic institutions cannot by any possibility be long worked with safety unless there is a large and thoroughly instructed class to help in their working.

'*Ex nihilo nihil fit!*' '*Dix mille ignorances ne font pas un savoir!*' Nine-tenths of the nonsense that is talked and written up and down the land would never be heard of if an adequate knowledge of the History of the World were one of the ordinary accomplishments expected in an English gentleman. I have shown, I think, that it could be quite easily obtained without trespassing upon the time required for any other studies which should form part of general, as distinguished from special, education; upon the time required for Literature and Natural Science amongst others. I have

shown further, that where special aptitudes for other studies were present I should be far from exacting in favour of the system of education which seems to me *ceteris paribus* the best. Nothing could be further from my wish than that any one of the schools into which young men now go at Oxford or elsewhere should lose their pupils, least of all should I wish this to happen to the Modern History School. All I desire is that the peculiar needs of the body of persons whom I have kept in view throughout should be carefully remembered.

It seems to me that a Society so closely connected as is ours, alike with the Universities and with the scholastic profession throughout the country, could do a great deal to effect this, and that is why I have ventured, at, I fear, too great length, to place my views before you and to submit the same to your better judgment.

THE PROGRESS OF HISTORICAL RESEARCH DURING THE SESSION 1891-92.

HISTORICAL RESEARCH in its modern and enlightened meaning is a term which may be applied to the scientific production of historical literature at large. It is no longer necessarily confined to the collection of materials from the excavations carried out by what was once most unfairly regarded as mere journeyman labour, but may actually include the whole process of the compilation of a modern historical text-book. This is at present the furthest point to which the definition can be safely carried. It is unreasonable to insist, as many students would do, that only those writers who are capable of discovering and interpreting for themselves the whole of the original evidence which exists for the elucidation of a given subject are qualified for the title of historian—the large number of works based on that ‘notable foundation hearsay,’ or on the opinions of former writers, or which are apparently evolved from the author’s ‘inner consciousness,’ being relegated to the department of ‘Belles Lettres.’ It is possible for an historical text-book to be valuable for its information, and at the same time to give pleasure to the general reader by the beauty of its style, and those who are never weary of exposing the errors of certain historians of a past generation and of our own day ought not to forget that formerly, as now, the two methods of historical composition flourished side by side, and that each has been found helpful to the pursuit of historical studies.

At the same time it will be evident that for the present purpose the progress of historical research may most con-

veniently be traced in the literary operations directed by the Government departments, in the transactions of the historical societies, and in those recent individual publications, periodical or otherwise, which have advanced new and important views, or have helped to throw fresh light on the leading topics of history.

The laborious results of the state-aided research connected with the Rolls Series of Chronicles and Memorials, and with the Calendars of State Papers, are rightly regarded as the most important feature of the annual production of historical literature in this country, and here, as was indicated in a former notice, we see the scheme of these national publications passing through a state of transition, or rather reverting to an older and highly honoured precedent. The long series of monastic Chronicles is drawing rapidly to its close, and there seems but small prospect of any continuation of the series in a kindred form. The publication of the monastic Chartularies, though in itself a highly desirable work, is one that can be most effectually performed by the enterprise of local societies, and there is now a very general wish for the continuation of the old series of Record Publications, which, under the care of editors like Palgrave, Hunter, and Hardy, have been helpful almost beyond belief to three generations of historical students, but which have now become almost as inaccessible as the originals themselves. The transition above referred to is well seen in the case of two forthcoming publications of the existing Rolls Series, each of which has taken the novel form of an edition of a public record. It is not, however, either desired or expected by historical students that the paltry grant hitherto conceded for a national work (which with all its imperfections has brought us more distinction in the eyes of Europe than a hundred-fold expenditure upon a single war-ship, or the injudicious purchase of a single work of art), should be allowed to lapse. But if a new series of much-needed Record Publications is sanctioned in the immediate future, it should not be forgotten that the Rolls Series first fell into disrepute owing to the miserable economy

which allowed the later volumes to be disfigured by flimsy binding and a most discreditable print. It would seem, indeed, as though the quality of the editorial work gradually deteriorated under these depressing conditions, whilst the still more pernicious regulation which necessitates the printing of such works as these in disjointed fragments of a few sheets at a time has also been responsible for a good many of the complaints with which we are unfortunately only too familiar.

With the exception of the last instalment of Mr. Owen Pike's admirable edition of the Year-books, with its noticeable dissertation on the term 'Merchet,' no work of very great importance has been published in this series during the past session, but the very interesting controversy as to the identity and date of the so-called Matthew of Westminster, which was revived by the late Dr. Luard's masterly edition of the 'Flores Historiarum,' has been continued by Dr. Liebermann (a Corresponding Member of this Society), by M. Bémont, and by other distinguished scholars. Some five or six other works are already in the press, including Parliamentary Petitions of Edward I., edited by Professor Maitland, and the famous Red Book of the Exchequer, edited by Mr. Hubert Hall, both Fellows of this Society.

In the Rolls Series of Calendars several well-known works have been advanced another stage. A very successful Calendar of Patent Rolls of the reign of Edward III. has been published under the immediate supervision of the Deputy Keeper of the Public Records, and progress has been made with the Calendars of the Close Rolls and of the Papal *Regesta* in the Vatican. At the same time a number of other calendars as well as indexes and lists have been continued or begun by the direction of the Deputy Keeper, whose admirable project for a comprehensive series of Record lists and publications is set forth in a recent report.

Amongst the valuable and interesting Reports of the Historical Manuscripts Commission recently published, that in which the first portion of the Fortescue and Portland MSS. are described is especially noteworthy. Several important reports

on municipal and private collections are in progress. When we add that the example of the English Record Office has been steadily followed by the respective offices in Scotland and Ireland, some idea may be formed of the assistance given to research by the departments of the modern State.

The increased number of historical students whose attendance at the Public Record Office and at the British Museum is recorded in the official returns bears witness to the improved methods of historical research, and the same activity is witnessed in the local or special institutions where historical materials are to be gathered. Moreover, the visits of historical students to foreign Libraries and Archives are now of very frequent occurrence, and are almost invariably attended with both profitable and pleasurable results. This is largely due to the liberal concessions made by the authorities in favour of bonâ-fide students, and the useful intercourse which has resulted therefrom is still further facilitated by the interchange of views and the diffusion of enlightened criticism effected by the great historical journals of several European countries.

At no previous period certainly was the study of history so cosmopolitan in character as it has become in the present day. The Imperial Government has undoubtedly made a considerable contribution to the progress of historical research, but it is doubtful if it has accomplished more, relatively to its means, than certain Colonial Governments. The Dominion of Canada, for instance, has continued with unabated vigour the collection and transcription of all MS. materials relating to its own history which are to be found in European Archives, and the Governments of New South Wales and Tasmania are not only engaged in the same direction, but the former is already publishing some of the results of recent discoveries in the form of an official History of the Colony.

The learned societies have continued to bear the brunt of the labour and expense inseparable from the processes of modern historical research. Amongst those bodies which confine their energies to the publication of historical texts,

the Camden Society has produced a valuable contribution to Irish History in the Essex Papers for the years 1672-9. The Pipe Roll Society, under the presidency of the Bishop of Oxford, has produced new Year Rolls of the Exchequer, which throw a flood of light upon constitutional and family history in the twelfth century, and the Selden Society can claim another creditable but rather laboured edition of the Judicial Rolls. Both these societies have new and important works in the press, in which we shall again see Professor Maitland's master-hand. The great north-country societies continue to produce valuable works, amongst which the Register of Selby, published by the Yorkshire Archæological Association, may be mentioned. The Society of Antiquaries is about to publish (in vol. liii.) Lord Dillon's remarkable monograph on the English occupation of Calais in the sixteenth century, a reconstruction of the ancient English colony and its surroundings, which could only have been accomplished by years of patient labour amongst contemporary documents. The discovery and identification of the Royal Cup presented by James I. to the Spanish envoy is one of those object-lessons which are often more instructive than the most exhaustive essays. It opens the way for a new venture in English history dealing with the constitution of the King's House from the earliest times. The Royal Geographical Society and the Royal Society of Literature have each brought forward questions intimately connected with the scientific study of history, while the Royal Historical Society itself, apart from the record of a year's work which appears in the preceding pages, has reported progress with more than one important publication.

At no previous period have historical studies been more carefully fostered, or more diligently and successfully pursued by scholars connected with the great English Universities. It is true that the progress of actual research has not been greatly assisted by many of these contributions, but the historical publications of the University Presses have attained a very high standard, while although many students may be enticed from the paths of research by the blandishments of

journalism, and of the serial system of historical publication, in which the enterprising publisher caters for the supposed wants of the general reader, there have been some notable exceptions. Two historical workers of real promise have appeared during the past session. Mr. A. G. Little has published, through the Oxford Historical Society, a history of the Grey Friars at Oxford, which shows a fine appreciation of the real sources of history, and Mr. W. A. J. Archbold has placed to the credit of the younger School of History at Cambridge an excellent sketch of the religious houses of Somersetshire.

The Oxford Historical Society has never done better work than it is doing now, and it is pleasant to observe that it enjoys the active co-operation of many who are not professed students of antiquity. The lately published history of Oxford Colleges was the result of a very far-reaching movement in favour of the study of manuscript origins which has perhaps been stimulated by the notices of early academic life discovered amongst some recent publications of the Historical MSS. Commission.

English corporations, ecclesiastical and municipal, have made good use of the assistance afforded by the commission in question for the purpose of arranging their still unclassified manuscript treasures, just as the independent departments of the Government readily submit their official papers to the inspection of the Parliamentary Committee appointed for this purpose. We hear no complaints of the concealment or withdrawal of documents, such as formed the ground for a recent spirited remonstrance on the part of the Garde-général of the National Archives of France. We even find that a good deal of the work of re-arrangement has been done by private enterprise, as in the recent case of the Corporations of Nottingham and Gloucester, and now by the Dean and Chapter of Lincoln, whose famous registers are being printed by authorised scholars. Winchester, Wells, York, and Salisbury, amongst other churches, are fortunate in the antiquarian zeal of their collegiate clergy. In the case of the first-named

town, the annals of the famous school have been also published, whilst a still more minute investigator has endeavoured to throw light upon the pleasant relations existing between the scholars and the French prisoners-of-war in the days of the good Dr. Lemprière.

Apart from the subvention of the State, or the association of historical workers, the production of historical literature has been especially facilitated in the present day by the co-operation of the ablest writers in serial publications. A very considerable addition has been made during the past session to the already long list of 'English Statesmen,' 'Rulers of India,' 'Men of Action,' and the like, as well as to the convenient 'Epochs of History' and 'Stories of the Nations,' which are especially serviceable for the study of prescribed periods. There is still a striking deficiency, as the President of the Royal Historical Society pointed out in his recent address, in the department of general history, but younger students may be considered highly fortunate in the possession of two such suggestive text-books as Mr. Gardiner's 'Student's History' with its companion Atlas, and the new edition of the late Mr. Green's 'Short History of the English People.' Abroad, too, we observe the same improvement in the character of historical text-books. Nothing could be more admirable than M. Monod's 'Cours Complet d'Histoire.' Dr. Lamprecht's new 'German History,' of which the first part has lately appeared, promises well for the study of social phenomena. In Holland, also, a comprehensive national history is in progress by Professor Blok, and Dr. Brugmans is engaged in original researches for a more recent period of history. The Dictionaries of National Biography and Economic Terms pursue their successful courses, and we even hear of a great Social History of England which is to be prepared with the help of many able hands. In periodical literature, too, the 'English Historical Review' and the Economic Quarterlies have rendered services, the value of which can hardly be estimated in our own day. Local history, especially that of the English counties, has not been

very strongly represented during the past year, but naval and military historians have combined to keep their special subjects in the front rank of modern research. Professor Laughton has re-written the lives of great English seamen in the 'Dictionary of National Biography'; a new life of Rodney has appeared; the researches of Mr. Oppenheim in naval history of the sixteenth and seventeenth centuries have attracted considerable attention; Major Edye has made progress with an exhaustive 'History of the Royal Marines'; and Colonel Davis is continuing his history of the famous Tangiers regiment into the period of Sedgemoor and Boynewater. These are but a sample of recent research in this department of history.

The history of the English Colonies has certainly received its fair share of attention. Another volume of Mr. McCall Theal's admirable 'History of South Africa' has appeared for the Napoleonic period. Mr. Darnell Davis is visiting the Continental Archives in search of MSS. relating to the early history of the West Indies. Mr. Lucas has fairly rounded off his luminous handbook to the British Colonies. Another work of newer interest is that just completed and shortly to be issued by Mr. Robert Chalmers on the history of Colonial Currency, compiled from original State Papers, some samples of which have lately appeared in the 'Dictionary of Economic Terms.' In close connection with our Colonial history we have to note some further valuable researches including a collection of documents relative to the Spanish Colony of Cuba, the correspondence of Hessian officers during the War of Independence, M. Garnault's history of French commerce and colonisation in the eighteenth century, and an edition of the French Consular Despatches from Algiers. There has also been the usual mass of ephemeral writings concerning the European colonies in Africa and still more in connection with the international reunion at Chicago, including more than one life of Christopher Columbus. Amongst the above, however, one work of real utility has been completed, Sir Lambert Playfair's share in a forthcoming bibliography of

Algeria, which will form a most convenient index to many hundreds of manuscript volumes amongst the foreign correspondence of the last three centuries. Similarly Prince Roland Bonaparte has prepared a valuable bibliography of Corsica, and M. Manno one of Savoy. Indeed, the experience of recent years has proved that the conscientious bibliographer is one of the historian's most useful allies. Another is undoubtedly the topographer, who is capable of performing his work on philological principles, but, with the notable exception of Mr. W. H. Stevenson, few English scholars can pretend to the excellence achieved in this respect by the pupils of the *École des Chartes* and other French specialists. Another of M. Longnon's wonderful local studies, on the topography of La Marne, has lately appeared, and M. Brun-Durand's '*Dictionnaire de la Drome*' has a still wider historical interest.

Amongst Oriental scholars, apart from the national importance of such works as the Hon. G. Curzon's '*Persia*,' and Mr. Baden Powell's '*Land Systems of British India*,' the great event of the past session has been the imposing Congress of European and Asiatic scholars, in which the Royal Historical Society was fitly represented by its President and by Professor Rhys Davids. The recent learned researches into the history of the mediæval Jews have been actively continued both in this country and in Germany. Amongst other works in the department of ancient history, the excitement caused by the publication of the British Museum Aristotle has scarcely yet subsided. Professor Gardner has published some new chapters on Greek history, and a further instalment of the late Professor Freeman's monumental work on the history of Sicily has appeared; whilst Professor Middleton has produced a learned work on the Remains of Ancient Rome, and M. Chas. Mijatovich, a Corresponding Member of this Society, has written an excellent history of Constantine the Great. The historical work of the year has, however, been most remarkable in the wide field of mediæval history. In England we have had a new and most important theory

of the origin of Knight Service by Mr. J. H. Round, together with a critical study of the reign of King Stephen by the same author. M. Vinogradoff's great work on Villainage in England sounds the first note of a revolt from the historical view with which Mr. Seebohm has familiarised us. In Germany Dr. Liebermann's masterly essay on the Anglo-Norman laws and institutes has excited the admiration of all mediæval scholars. Several literary editions of great historical value have recently appeared, including the Song of Lewes, the Song of Dermot, *Béowulf*, the Romances of Eustace the Monk and of Guy of Warwick, M. Paul Meyer's admirable edition of Guillaume le Maréchal, and the edition by Herr Pannenberg of the *Carmen de bello Saxonico*, whilst Professor Mayor and Mr. Lumby's great edition of Bede's Ecclesiastical History is still in progress. In addition to the foundation of a new English Calendar of Historical Documents in the Vatican, we find in France that M. Langlois and his colleagues have produced further instalments of the *Regesta* of mediæval popes. While in Germany (while Dr. Löwenfeld's death will be severely felt) Herr Langen has written learnedly on the history of the Papacy from Nicholas I. to Gregory VII., and Herr Rodenberg on the intervention of Innocent IV. in the Sicilian question. The registers of the ancient margravate of Baden, extending back to the eleventh century, have been published at Innsbruck, and Dr. Hirsch has written on the reign of Louis VII. of France. Indeed a wonderful activity has been manifested throughout the whole of Europe in the publication of mediæval State Papers. Again in Scandinavia, in Silesia, and in Finland, *codices diplomatici* and similar collections have been skilfully edited; but to English students the subject of M. Bémont's great edition of the Gascon Rolls, announced in the preceding pages, will have a peculiar interest. Besides, few foreign students are more highly esteemed in this country.

In France quite a considerable number of local studies have appeared, connected with parliamentary, clerical, and academic institutions. Amongst these may be mentioned

M. Guilhermoz's 'Parliamentary Procedure in the Fourteenth Century,' M. Coyecque's documents relating to the Hôtel Dieu, documents relative to the history of the Vosges, M. Guérin's extracts from the Trésor des Chartes relating to Poitou, and the continuation of the chartulary of the University of Paris. There have also appeared some original contributions to fiscal history: in France, M. Jacqueton's review of financial history from Charles VII. to Francis I., a period which is almost parallel with Sir James Ramsay's researches in England, where Mr. Hubert Hall's 'Antiquities of the Exchequer,' and Mr. Ridgeway's 'Origin of Metallic Currency and Weight Measures' have also been published.

In Economic History proper the second volume of Professor Cunningham's great 'History of Industry and Commerce' will probably have appeared before the opening of a new session. A second volume of Professor Ashley's small but useful work is also in active progress, and a posthumous work by the late Thorold Rogers has appeared, besides essays by other writers on the English Guilds. Both in periodical literature and in the social department of General History, economic subjects have attracted increased attention and respect.

English History has also been greatly indebted to the researches of the legal antiquary, the works edited for the Rolls Series by Mr. L. O. Pike, and for the Selden Society by Professor Maitland being especially valuable. In Germany, of course, great attention has been given to the same subject, which has lately begun to be studied with success in America.

Next in importance to these mediæval studies may be placed the numerous contributions to the History of the Revolutionary and Napoleonic periods. In England another History of the French Revolution has appeared. Mr. Oscar Browning has published a volume of original essays, and is engaged in editing for the Royal Historical Society a volume of State Papers for the period of the Second Coalition.

Abroad, M. Rubins has published some studies in the 'History of Denmark' during the critical years 1807-14. A 'Reign of King Louis Napoleon' has been published in the Netherlands. The 'History of the Revolutionary War in Luxembourg' has been written by MM. Zelle and Knaff. Dr. Åberg has edited in Sweden the diplomatic correspondence of that country during the Napoleonic period. In France the Revolutionary documents of the Haute Vienne, and the debates of the Jacobin Club, are most instructive, while a history of 'Lettres de Cachet' is promised by M. Funck-Brentano, the learned cataloguer of the MSS. of the Bastille, and author of a new version of the battle of Courtrai (1302), the French Bannockburn. M. Parfait's 'Life of Marceau' will interest every reader, and M. Chuquet reviews the history of the Revolutionary wars. In Russia M. Tratchevsky continues the publication of the diplomatic correspondence between Russia and France for the years 1803-4, and M. Tatistcheff is working at a slightly earlier period, and Count Weil has described the great campaign of 1814 from military despatches at Vienna. To these may be added the reports in the Legislative Assembly since 1787, the journal of a burgess of Valence 1789-99, and Count Boulay de la Meurthe's edition of the documents relative to the Concordat 1800-1; while M. Koren is investigating the Scandinavian relations with England during the Napoleonic period.

At the same time, earlier and later periods of European history have not been wholly neglected. In England that of the Tudors has been further illustrated by the three great Calendars of Domestic State Papers, Privy Council Acts, and Venetian correspondence, while as a compensation for the abeyance of the Foreign Calendar, a series of remarkable State Papers relating to the Armada is being edited for the Rolls Series by Major Martin Hume, who was recently elected a Fellow of this Society. There have been some new views advanced as to the fate of the Princes in the Tower, and the divorce of Catharine of Aragon, and in a slightly earlier period fresh contributions to the story of Warwick the King-

maker, as in France to that of Jeanne d'Arc. Abroad, an important estimate of the foreign policy of Louise of Savoy is furnished by M. Jacqueton. Signor Romano's description of Charles V.'s intervention in Italy is based on contemporary documents, like the Spanish collections lately published to illustrate the relations between Philip II. and his German subjects. Dr. Hergenroether's publications from the *Regesta* of Leo X. are singularly valuable, as also are Herr Schwarz's documents relative to the reign of Maximilian II. Professor Beesly's estimate of Queen Elizabeth, and Mr. Stebbing's 'Life of Raleigh' have continued to excite attention, and Mr. J. W. Clark at Cambridge has issued a well-timed text of the charters of Elizabeth and James I. to the University.

The most noticeable publication in the Stuart period has naturally been Mr. S. R. Gardiner's marvellous 'History of the Great Rebellion.' A new 'History of Mary Stuart' has been written by M. Martin Philippon of Brussels. Mr. Warner's edition of the 'Nicholas Papers for the Camden Society' and 'Lady Verney's Memoirs of the Verney Family' are valuable contributions to contemporary history, and amongst works of a more miscellaneous character, Creighton's 'History of Epidemics,' Mr. Jacob's edition of 'James Howell's Letters,' M. Jusserand's correspondence of the Comte de Cominges, and Sir T. Longmore's excellent biography of Richard Wiseman, serjeant-surgeon to Charles II., should not be overlooked. The history of the eighteenth century has been illustrated by such works as Mr. Armstrong's 'Elizabeth Farnese,' M. Jules Flammermont's correspondence of Count de Mercy-Argenteau with Prince Kaunitz, the 'Wars of the Reign of Louis XV.' by Count Pajol, a German history of the military campaigns of Prince Eugene, 'Memoirs of Marshal Villars' by the Marquis de Vogüé, memoirs of the Marquis de Souches for the period of the war of the Spanish Succession, a journal of the campaign of Dettingen, edited by M. du Teil and the Duc de Broglie's essay on the 'Peace of Aix-la-Chapelle.' Mr. B. F. Stevens has issued further important instalments of his series of facsimiles of American

documents in European Archives, and he has also been engaged upon original researches connected with the history of the Secret Service during the earlier part of the reign of George III., some passages of which were communicated to this Society in December last. Quite recently, also, a work on the Secret Service under William Pitt has appeared, which, also, displays evidences of special research. In connection with American history, Mr. Carson's account of the 'Supreme Court of the United States' and Hale's 'Story of Massachusetts' may be mentioned. Mr. Kingsford's 'History of Canada' is in active progress, and the usual number of works of local or family interest based upon English State Papers have appeared, together with an instructive history of historical writing in America. In Spain, a biography of the famous Admiral of the Indies, Don Cristobal Colón, has been completed by a member of the same family.

In the Netherlands the Government publishes useful reports on documents relating to the history of Holland, which are preserved in Russian and Austrian Archives. Again, the treatise of M. A. Le Roy on the Bull 'Unigenitus' is noticeable. Von Ompteda's biography of a Hanoverian officer in English pay is interesting, while, curiously enough, Colonel Fyler has been engaged in this country in examining the despatches of the English officers in Hanover, for his history of the 50th Regiment.

The Warren Hastings controversy has lately proved rather one-sided, and Sir John Strachey's refutation of the charges connected with the Rohilla war is very conclusive. In the history of the present century we notice the appearance of a number of diplomatic compilations, all of which are not of the same excellence as the concluding volume of Sir E. Hertslet's well-known 'Map of Europe by treaty.' The famous Talleyrand Memoirs have by no means satisfied the general expectation, but the Duke of Orleans' military history has the value of an oral tradition. The history of Servia has been already pleasantly told by Madame Mija-

to vitch in a series of chapters based on contemporary State Papers, and now this able lady is engaged in fresh researches for the purpose of a modern supplement. In Spain a collection of documents for the reign of Isabella II. has been printed, and in Italy a history of naval warfare by Signor Randaccio, which, however, is chiefly valuable for a description of the remarkable development of the Italian Navy during the last half-century.

There are of course many regrettable losses and some apparent deficiencies to be set off against this admirable record. In the first place, the mortality among the older school of historians has scarcely been equalised by the promise of the rising generation, and in the second place the fashion for histories of any magnitude seems to be going out. With the completion of the great works undertaken by Mr. Gardiner, Mr. Lecky, and the late Professor Freeman, and the possible termination of the Rolls Series, it will become a question of no small moment by what landmarks the progress of English historical writing will be recognised in future years. It is true that Mr. Gasquet's great work on the Reformation is still in progress, that M. Vinogradoff's recent volume will probably be succeeded by a further contribution to the early history of land tenure, and that a few more works of sustained interest are announced, or may be reasonably expected in the immediate future ; but it would nevertheless seem as though the progress of research in this country must, for some time to come at least, be traced in the pages of periodical and serial publications.

The Royal Historical Society has, at least, no reason to be dissatisfied with the share which it has taken in the development of this new branch of historical study.

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 Maw, James, Blenheim House, Margery Park Road, Upton, Forest Gate, E.
 Maybank, John Thomas, High Street, Dorking.
 Mesney, General William, F.R.G.S., 22 Swatow Road, Shanghai, China
 * Metcalfe, Rev. James, M.A., Vicarage, West Teignmouth.
 * Miggs, John Gilbert, 123 Cromwell Road, South Kensington, S.W.
 Miles, Colonel S. B., c/o Messrs. H. S. King & Co., 45 Pall Mall, S.W.
 Millais, Lady, 2 Palace Gate, Kensington, S.W.

- Miller, M. H., *Leek Times*, Staffordshire.
 Milman, Rev. W. H., M.A., Sion College, Victoria Embankment, E.C.
 * Milward, R. H., 41 Waterloo Street, Birmingham.
 Moloney, Sir Cornelius Alfred, K.C.M.G., Government House, Lagos; and
 Lamarsh House, Richmond Hill, Surrey.
 Molyneux, Lt.-Colonel Edmund, F.R.G.S., Warren Lodge, Wokingham, Berks.
 Money-Coutts, Francis Burdett, Walsingham House, Piccadilly.
 Monk, James Henry, 5 Buckingham Gate, S.W.
 Moore, William, B.A., 56 Springfield Road, N.W.
 Morris, Rev. William, Loughborough, Leicestershire.
 Mosley, George, F.G.S., The Commercial College, York.
 * MÜLLER, Professor F. MAX, M.A., LL.D., 7 Norham Gardens, Oxford.
 Mullins, J. D., Birmingham Free Library, Birmingham.
 Munns, Henry, 55 Warner Street, Derby.

 Naylor, Robert Anderton, F.R.G.S., Cuerden Hall, Thelwall, Cheshire. (*Post town*, Warrington.)
 Nicolaevitch, Miss Persida, Montpelier, Brecknock Road, N.
 Norris, William, 38 Kersley Street, Battersea Park Road, S.W.

 * O'Donnovan, William, LL.D., 15 Belgrave Road, Rathmines, Dublin.
 OMAN, CHARLES WILLIAM CHADWICK, M.A., All Souls College, Oxford.
 Ord, M. Clement, B.A., 6 Hughendon Road, Clifton, Bristol.
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 Eltham, Kent.
 Owen, Edward Humphrey, F.S.A., Ty Coch, Carnarvon.
 Oxburgh, Henry, 39 West View, Clitheroe.

 Pacy, Frank, Vestry House, Mount Street, W.
 PAGLIARDINI, TITO, 21 Alexander Street, Westbourne Park, W.
 Paine, Mrs., Cockshot Hill, Reigate, Surrey.
 Palmer, James Foster, L.R.C.P., M.R.C.S.E., 8 Royal Avenue, Chelsea College,
 S.W.
 Parker, Henry, C.E., Irrigation Officer, P.W.D., Ceylon.
 * Parr, J. Charlton, Grappenhall Heyes, Warrington.
 Parrish, Rev. Henry, 3631 Wallace Street, Philadelphia, Pa., U.S.A.
 Patterson, James K., Ph.D., President of the Agricultural College, Lexington,
 Kentucky, United States.
 Paul, Alexander, 10 Guilford Place, W.C.
 Pavlovitch, Ivan, LL.B., Chargé d'Affaires for Servia, Berlin.
 Payne, John Augustus Otonba, Chief Registrar, Supreme Court, Lagos, West
 Africa.
 PELHAM, Professor H. F., M.A., Oxford.
 Pembroke, The Earl of, F.R.G.S., Wilton House, Salisbury, Wilts.
 Penny, Arthur Paul, 18 Bedford Place, W.C.
 * Perry, Captain Ottley, F.R.G.S., F.S.A., 7 Bedford Street, Bolton, Lancashire.
 * Peyster, General John Watts de, 59 East 21st Street, New York.
 Pfugk-Hartung, Professor Dr. Julius von, 14, York Strasse, Berlin.
 Philip, George, 32 Fleet Street, E.C.
 Phillipps, Henry M.
 * Pickering, J., F.R.G.S., 86 Thicket Road, Anerley.
 Pierce, Francis Dormer, Monmouth Grammar School, Monmouth.
 Pooley, Frank, 18 Hacken's Hey, Liverpool.
 Pope, G. Harrison, Ranelagh Lodge, Fulham, S.W.
 * Porges, Theodore, F.R.G.S., 11 Rue Montalivet, Paris.
 Potter, Rev. William, "Tamar House," South Melbourne, Victoria.
 Potts, Lewis W., St. Martin's House, Stamford Hill, N.
 Powell, Rev. Arthur Herbert, M.A., LL.B., 23 Morella Road, Wandsworth
 Common, S.W.

- Price, Cornell, M.A., B.C.L., F.R.G.S., Westward Ho! N. Devon.
 Pullee, Miss Mary, St. Martin's Middle Class School for Girls, Castle Street,
 Leicester Square, W.C.
 Purvis, Gilbert, F.R.C.I., F.R.S.S., Ingle Neuk, Beckenham, Kent.
 Quinn, Robert G., F.R.S.L.
 Raikes, Lt.-Colonel G. A., F.S.A., 63 Belsize Park, Hampstead, N.W.
 Raju, P. V. Ramaswami, B.A., High Court, Madras, c/o Messrs. Grindlay & Co.,
 Parliament Street, S.W.
 Rama Krishna, T., B.A., 97 Auddiappah Naick Street, Black Town, Madras.
 Ranger, Henry, 42 Evington Street, Leicester.
 Rannie, David Watson, Conheath, Duffries, N.B.
 * Read, His Excellency the Hon. General John Meredith, LL.B., M.R.I.A., United
 States Minister, Athens, c/o Messrs. J. Munroe & Co., 7 Rue Scribe, Paris.
 Read, Rev. Philip Chesshyre, F.R.G.S.
 Redway, George William.
 Reich, Dr. Emil, 40 Great Russell Street, Bloomsbury.
 Richison, Charles A., 2 Manor Road, Stoke Newington, N.
 Richardson, Captain J. G. F., Ph.D., J.P., Elmfield, Knighton, Leicester.
 Ridge, Samuel Hartshorne, B.A., F.R.G.S., 257 Victoria Parade, East Mel-
 bourne, Victoria, Australia.
 Robinson, James, 33 Woodbine Road, Gosforth, Newcastle-on-Tyne.
 Robinson, William, Mount Pleasant, Wembdon, Bridgewater.
 Rodocanachi, Emmanuel P., 8 Avenue Hoche, Paris.
 Rodway, A. J., 22 Great Colmore Street, Birmingham.
 Rolfe, Rev. Frederick William.
 Rome, William, F.S.A., The Red Lodge, Putney, S.W.
 Ropes, Arthur Reed, M.A., The Ferns, Sunnyside Road, Hornsey Rise, N.
 * Ropes, J. C., 99 Mount Vernon, Boston, Mass., U.S.A.
 Rose, John Holland, M.A.
 * ROSEBERY, The Earl of, Lansdowne House, W.
 Ross, Frederick, 137 Huddleston Road, Tufnell Park, N.W.
 Rumbold, His Excellency Sir Horace, Bart., British Legation, The Hague.
 Rusby, James, 18 Oppidan's Road, Regent's Park, N.W.
 Rusden, George William, F.R.G.S., c/o C. P. Willan, Esq., Solicitor, 7 St.
 James's Buildings, William Street, Melbourne.
 * Russel, Hon. Rollo, Pembroke Lodge, Richmond, Surrey.
 * Ryder, Charles, The Brewery, Leeds.
 Rymer, Samuel Lee, J.P., Pevensey, Wellesley Road, Croydon.
 Sabel, Ernest, F.R.G.S., Lynton House, South Side, Clapham Common, S.W.
 * Safford, John Burham, F.G.S., Parkshot House, Richmond, Surrey.
 St. Clair, John, The Ewart High School, near Newton Stewart, N.B.
 Samuel, Harry Sylvester, 80 Onslow Gardens, S.W.
 Sanders, Samuel, 7 De Vere Gardens, Kensington Palace, W.
 Sastri, Pandit Hari Das, M.A., Principal of His Highness the Maharajah's
 College, Jeypore, India.
 Saunders, C. T., 20 Temple Row, Birmingham.
 Saunders, W. H. Bernard, 13 Albion Terrace, Oundle Road, Peterborough.
 * Score, H. Berkeley, Lathom Park, Ormskirk.
 Searelle, Luscombe, c/o William Luscombe, Esq., J.P., Clarham, Plymouth.
 Seath, Thomas B., Sunnyside, Langbank, Renfrewshire.
 SEELEY, Professor J. R., M.A., 7 St. Peter's Terrace, Cambridge.
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 Dublin.
 Shannon, John Strangman, Principal of St. Martin's School, York.
 Sharp, J. Fox, The Park, Hull.
 Sharples, George, Waterloo Road Board School, Manchester.

- Shaw, Giles, 72 Manchester Street, Oldham.
- SHENTON, FRANCIS KINGSTON JOHN, Cranleigh, Longton Avenue, Upper Sydenham, S.E.
- Sherren, John Angel, Helmsley, Stavordale Road, Weymouth.
- Shettle, Rev. George T., L.A.
- Shyamal Dâss, Kavi Raja, M.R.A.S., Poet Laureate and Member of the Mahad Raj Sabha of Meywar, Oodeypore, India.
- Sibbald, John Gordon Edward, Admiralty, Spring Gardens, and 3 Townshend Villas, Richmond, Surrey.
- Sikes, Rev. Thomas B., M.A., Burstow Rectory, Horley, Surrey.
- Simmonds, Rev. Charles, B.A., Olive House, Olive Mount, Tranmore, Birkenhead.
- * Simson, Alfred, 4 Fairlie Place, Calcutta; London address, c/o Messrs. Kilburn, Brown & Co., 28 St. Mary Axe, E.C.
- Simpson, Percy, F.R.G.S., Fernholme, Eastbourne, Sussex; temporary address: St. George's Club, Hanover Square.
- Skrine, Henry Duncan, Claverton Manor, near Bath.
- Smith, E. Cozens, F.S.S., 1 Old Broad Street, E.C.
- * Smith, The Hon. Sir Donald A., LL.D., 1157 Dorchester Street, Montreal, Canada.
- Smith, Hubert, Belmont House, Bridgnorth, Shropshire; present address: 22 Rue Saint Sauveur, Perpignan, Pyrénées Orientales, France.
- Smith, Thomas Charles, Green Nook, Longridge, near Preston.
- * Smith, W. Bickford, Trevarno, Helston, Cornwall.
- Smyth, Francis Lea Stourbridge, B.A.Oxon, M.A.Sydney, F.R.G.S., Union Club, Sydney, and Woodlands, Edgecliff Road, Woollahra, Sydney, N.S.W.
- Smyth, George J., *Librarian*, Linen Hall Library, Belfast.
- Spence, Thomas Edward Joseph, F.S.S.
- Spencer, Daniel, F.R.G.S.
- Spry, John, Head Master, Grammar School, Romford.
- Spry, William James Joseph, R.N., F.R.G.S., Therapia, St. Andrew's Road, Southsea.
- Stack, G. A., Professor of History, Presidency College, Calcutta; Editor of the *Calcutta Review*, Calcutta, India.
- Stanley, Percy Clifford, M.A., Hunstanton Hall, Norfolk.
- * Stanley, Walmsley, F.R.G.S., The Knowle, Le'gham Court Rd., Streatham, S.W.
- Stapley, Sir Harry, Bart., 15 Savile Row, W.
- Stead, Richard, Grammar School, Folkestone.
- Stead, Thomas Ballan.
- Steel, Colonel John Philip, R.E., Chief Engineer and Secretary to the Gov. N.W.P. in the P.W. Department, Allahabad, East Indies.
- Steele, Joseph, M.D., c/o Mr. Alderman Rymcr, Wellesley Road, Croydon.
- Steer, Henry, M.L.L.S., 1 Irongate, Derby.
- STEVENS, B. F., 4 Trafalgar Square, W.C.
- Stevens, George Richard, Greenmount, Hong Kong.
- * Stewart, General Alexander P., LL.D., Oxford, Miss., U.S.A.
- Stewart, Rev. John, Penryn, Cornwall.
- Stockdale, Thomas, Spring Lea, Leeds.
- Stone, J. H., Principal, Kumbakonam College, Tanjore District, India.
- Stone, James Hy., Cavendish House, Grosvenor Road, Handsworth, Staffordshire.
- Stryker, General William J., Adjutant-General of New Jersey, Trenton, New Jersey, U.S.A.
- Stuart, Lieut.-Col. W., Tempsford Hall, Sandy, Bedfordshire.
- Stubbs, S., 269 Hampstead Road, N.W.
- Sulley, Philip, Parkhurst, Dumfries.
- Surr, Watson, 28 Threadneedle Street, E.C.
- Syms, Richard, Melbourne House, Barking Road, E.
- Taylor, Charles Edwin, M.D., F.R.G.S., St. Thomas, Danish West Indies.

- * Taylor, Miss Helen, Avignon, France.
- * Teele, Rev. Albert K., D.D., Milton, Mass., U.S.A.
- Tempany, Thomas William, Sheen Park, Richmond, Surrey.
- THORNTON, Rev. Prebendary ROBINSON, D.D. (Oxon), Vicar of St. John's, Notting Hill; Boyle Lecturer; Vice-President of the Victoria Institute; 65 Ladbroke Grove, Notting Hill, W.
- Thorpe, Lieut. Patrick Joseph, Royal Irish Rifles, Fermoy, co. Cork.
- Todhunter, Charles George, Kingsmoor House, near Harlow, Essex.
- Toplis, Miss Sophia Grace, 63 Bartholomew Road, N.W.
- Torr, Herbert James, Riseholme Hall, near Lincoln.
- Tout, Professor T. F., Owens College, Manchester.
- Travis-Cook, John, 14 Parliament Street, Hull.
- Tregear, Edward, F.R.G.S., Park Street, Wellington, New Zealand.
- * Turton, Robert Bell, 24 Old Square, Lincoln's Inn, and 7c Lower Belgrave Street, S.W.

Udal, The Hon. John Symonds, Attorney-General of Fiji, Suva, Fiji.

Urquhart, Harold, W.

Urwick, Rev. W., M.A., 49 Belsize Park Gardens, N.W.

Ventura, M., 18 Coleman Street, E.C.

Villavicencio, R., M.D., Consulate of Venezuela, 18 Broadway, New York.

Vincent, J. A., Needham Market, Suffolk.

Vos-per-Thomas, Rev. Samuel, West Parley Curacy, Wimborne, Dorset.

Wadling, Henry, Lamb Buildings, Temple, E.C.

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Wakefield, Rev. Henry Russell, The Vicarage, Sandgate, Kent.

Wakefield, Rev. Thomas, F.R.G.S.

Walford, John Edward, C.C., Knightbridge Street, E.C.

* Walker, Fountaine, (of Foyers), Ness Castle, Inverness.

Walker, J. M., M.A., 1 Lynette Avenue, Clapham Common South, S.W.

Walker, J. Maddocks, "Mancunium," Anerley, Surrey, S.E.

* Walker, Philip F., F.R.G.S., 36 Princes Gardens, S.W.

* Walker, Robert, F.R.G.S., Woodside, Leicester.

* WALLACE, Sir DONALD MACKENZIE, St. Ermin's Mansions, Caxton St., S.W.

Ward, John Edward, F.R.G.S., 114 Grosvenor Road, S.W., and Woolmer Hill, Haslemere.

Warre, General Sir Henry J., K.C.B., F.R.G.S., 35 Cadogan Place, S.W.

Warren, Colonel Sir Charles, R.E., 44 St. George's Road, S.W.

Warner, G. Townsend, B.A.

Waterston, Rev. Robert C., Boston, Mass., United States.

Watson, Rev. John Walter, 98 Chorley Old Road, Bolton, Lancashire.

Webb, H. G., "Caradoc," Blandford Road, Bedford Park, W.

Welch, Charles, Corporation Library, Guildhall, E.C.

Wellwood, Rev. Nathaniel, Danforth, near Toronto, Ontario, Canada.

West, James, Storrington, Sussex.

West, William Nowell, F.R.G.S., 30 Montague Street, Russell Square, W.C.

* Westminster, The Duke of, K.G., Grosvenor House, W.

* Whatton, J. S., 18 Hyde Park Street, W.

Wheeler, Frederic Elijah, 55 Lordship Park, N.

Whitehead, Sir James, Bart., Highfield House, Catford Bridge, S.E.

* Whitehead, Rev. J. H., M.A., The Poplars, Alsager, Stoke-on-Trent.

Whitehead, Rowland, Highfield House, Catford Bridge, S.E.

Whitworth, Rev. Richard H., Vicar of Blidworth, Mansfield.

Wild, William I., 130 Shaw Heath, Stockport.

- Wilkinson, Alfred, 23 The Terrace, Kennington Park, S.E.
 Wilkinson, R. J., Singapore, Straits Settlements.
 Williams, Major E. Calvin, LL.B., F.R.G.S., 1302 St. Paul Street, Baltimore, Maryland, U.S.A.
 Williams, E. P., 3 Essex Villas, Watcombe Park, Blackheath, S.E.
 • Williams, Rev. J. D., M.A., The Vicarage, Bottisham, Cambridge.
 Williams, Miss Margaret Elizabeth, 63 Shaw Street, Liverpool.
 Williams, Richard, Celynog, Newtown, North Wales.
 Williamson, George Charles, Ph.D., Dunstonsbeorh, Guildford, Surrey.
 Williamson, John M., Melville House, Overhill Road, Dulwich, S.E.
 Winters, William, Churchyard, Waltham Abbey, Essex.
 Wonnacott, J., F.G.S., F.R.G.S., Wadham House, Liskeard, Cornwall.
 Wood, Alexander, M.A., Horsham, Sussex.
 Wood, William, 4 De Crespigny Terrace, Denmark Hill, S.E.
 Woodhouse, Alderman S., 50 High Street, Hull.
 Woodroffe, Prof. Latham James, M.A., 81 Waterloo Road, Dublin.
 Wright, Bryce M'Murdo, F.R.G.S.
 Wright, George R. N., F.S.A., Junior Athenæum Club, Piccadilly.
 Wright, W. H. K., Free Library, Plymouth.
 Wurtzburg, John Henry, Clavering House, 2 De Gray Road, Leeds.
 Wyatt-Davies, Ernest, B.A., Trinity College, Cambridge.
 Wyles, Thomas, F.G.S., The College, Buxton.
 Yates, James, Public Library, Leeds.
 York, The Archbishop of, Bishopthorpe, York.
 Young, Miss Ernestine C., High School for Girls, 5 Portland Place, Bath.
 Young, Herbert Edward, Harbour Street, Ramsgate.

Zerffi, Henry Charles, 14 Randolph Terrace, Maida Vale, W.

The Council request that any inaccuracy in the foregoing list may be pointed out to the Secretary, and that all changes of address may be notified to him, so that delay in forwarding communications and the Publications of the Society may be avoided.

FOREIGN ASSOCIATIONS

WHICH EXCHANGE TRANSACTIONS WITH THE SOCIETY.

AUSTRALIA.

The Royal Society of New South Wales.

AUSTRIA.

The Imperial Academy of Sciences, Vienna.

BELGIUM.

Académie royale des Sciences des Lettres et des Beaux-Arts, Palais des Académies, Brussels.

BOHEMIA.

The Royal Society of Bohemia, Prague.

CANADA.

L'Institut Canadien-français d'Ottawa.
Geological and Natural History Survey Museum, Ottawa.
The Literary and Historical Society, Quebec.

DENMARK.

The Royal Society of Northern Antiquaries, Copenhagen.

FRANCE.

Société d'Ethnographie, 28 Rue Mazarine, Paris.

GERMANY.

The Historical Society of Berlin.

ITALY.

The State Archives of Tuscany.
British and American Archaeological Society of Rome, 20 Via S. Basilio,
Rome.

PORTUGAL.

The Royal Academy of Sciences, Lisbon.

RUSSIA.

The Imperial Archaeological Society, St. Petersburg.

SPAIN.

The Royal Historical Society, Madrid.
The National Archaeological Society, Madrid.

SWEDEN.

The Royal Society of Antiquaries of Sweden, Stockholm.
The Royal Academy of Belles-Lettres, History, and Antiquities Stockholm.

TASMANIA.

The Royal Society of Tasmania.

UNITED STATES.

The Smithsonian Institution, Washington.
The Johns Hopkins University, Baltimore.
New England Historic-Genealogical Society, Boston, Mass.
The Historical Society of New York, 170 Second Avenue, New York.
The Historical Society of Pennsylvania, Philadelphia.
The Academy of Arts and Sciences, New Haven, Connecticut.
The Georgia Historical Society, Savannah, Georgia.

FOREIGN ASSOCIATIONS.

The Massachusetts Historical Society, Boston.
The Historical Society of Rhode Island, Providence, R.I.
The Historical Society of Virginia, Richmond.
The Historical Society of Maryland, Baltimore.
The Historical Society of Missouri, St. Louis, Mo.
The Historical Society of Minnesota, St. Paul, Minnesota.
The Historical Society of South Carolina.
The Historical Society of Vermont.
The Historical Society of Michigan.
The Historical Society of New Jersey.
The Historical Society of Maine.
Peabody Institute, Baltimore, U.S.A., care of E. G. Allen,
28 Henrietta Street, Covent Garden.

LIBRARIES TO WHICH THE SOCIETY'S TRANSACTIONS
ARE PRESENTED.

Mason Science College, Birmingham.
South Kensington Museum.
Royal Institution, Albemarle Street, W.
Historical School, Cambridge, c/o O. Browning, King's College,
Cambridge.
Chetham's Library, Hunt's Bank, Manchester.

Royal Historical Society,

20 HANOVER SQUARE, LONDON :

January 21, 1892.

REPORT OF THE COUNCIL.

SESSION 1890-91.

THE Council of the Royal Historical Society present their Annual Report to the General Meeting of the Fellows for a period during which the constant progress of Historical research has necessitated a corresponding increase in the literary activity of the Society. The Council can point with satisfaction to the results achieved during this period, and they have every reason to believe that the Society will be materially benefited by these exertions and by the additional expenditure on literary undertakings. They therefore, once more, earnestly invite the zealous co-operation of the Fellows in furthering the well-known objects of the Society.

The following Papers have been read during the past Session :

'Aryan Relations to Egypt and the Chaldeans.' By J. S. Stuart Glennie, M.A.

'The Use of the Political Lot at Athens.' By J. W. Headlam, B.A.

'The Old Irish on the Continent.' By Professor Julius von Pfugk-Hartung.

'Republican Government.' By Oscar Browning, M.A., V.P.R.Hist.S.

'The English Staple at Calais.' By Hubert Hall, F.S.A.

'Pieter Cornelissøn Hooft.' By the Rev. G. Edmundson, M.A.

'France and Cromwell.' By Herbert Haines, M.A.

The reading of these Papers, however, by no means represents the literary activity of the Society. A volume of Transactions

was published in the autumn of last year, which from the historical value of the contributions which it contained may be regarded with the utmost satisfaction.

Following up the very successful initiation of a series of publications with Mr. OSCAR BROWNING's edition of 'England and Napoleon,' a second volume was issued in 1890 containing the texts of four important and hitherto inaccessible treatises on *Husbandry* during the Middle Ages, edited for the Society under the title of 'Walter of Henley,' by the late Miss ELIZABETH LAMOND and Professor W. CUNNINGHAM. This highly critical edition of mediæval MSS., which may be classed with the best productions of the Rolls Series, is certainly an enterprise on which a literary society may be congratulated, and the Council are glad to report that a copy has been obtained by the Public Record Office for purposes of reference.

Further progress has been made in the preparation of a second volume of the Papers read at the recent Domesday Commemoration, with which the Society was so closely identified through the action of its Secretary, Mr. P. Edward Dove.

The past Session has also been marked by an important step taken by the Council with the view of effectually carrying out the principal objects of the Society—namely the appointment of a Director to whom the superintendence of the literary work of the Society has been entrusted, subject to the control of the Council. This officer is charged with the duties of arranging for the Papers to be read at the usual Meetings of the Society, of editing the Transactions and Publications, and of corresponding with English and Foreign Historians in connection with the objects of the Society. On all these matters he reports to the Publication Committee, which during the past Session has transacted a considerable amount of business. The Director is also responsible for the literary *Agenda* for the Meetings of the Council and for the Reports of the Literary Meetings to the public press. In accordance with a resolution passed at a Meeting of the Council on March 19, 1891, Mr. Hubert Hall, F.S.A., of H.M. Public Record Office, a member of the Council of the Society, was

appointed Director for a term of two years with an *honorarium* of £50 *per annum*.

An important Resolution was passed at a meeting of the Council on December 17 last; to the effect that a volume of Transactions should be issued to Fellows of the Society on October 31 in each year. This volume, in addition to the Papers read in the course of the past Session, will, it is expected, also contain the President's address delivered at the Annual General Meeting and a statement of the Progress of Historical Research during the past year, together with the texts or translations of original documents and historical notes, to which all Fellows of the Society are invited to contribute. A preliminary Statement was appended to the last volume of the Society's Transactions.

The Council have already issued a list of Papers to be read during the forthcoming Session, and they have much pleasure in announcing that, in addition to the approaching issue of a series of annual volumes of Transactions, several further important publications are in contemplation. The first of these will probably be an interesting collection of the despatches of the several military agents of the English Government accredited to the armies of the Allies during the Second Coalition of Europe against Napoleon I. This volume will be chiefly concerned with English diplomacy in Russia during the years 1804-6, and will be edited for the Society by Mr. OSCAR BROWNING.

Several other important works have been offered to the Council by English and Foreign Historians and are now under consideration.

Negotiations are pending between the Council and the Committee of St. Martin's Free Library with the view of enabling the Society's Library to be displayed to the best advantage and of obtaining important concessions in respect of the same. The result of these negotiations will be stated in the next Annual Report of the Council.

During the Session twenty-four Fellows have been elected, fourteen have died, and twelve have resigned.

The following list shows the number of Fellows on the Roll compared with that of last year :—

	Oct. 31, 1890.	Oct. 31, 1891.
Ordinary Fellows	483	481
Life do.	91	94
Ex-officio do.	1	1
Honorary do.	58	55
Corresponding do.	25	25
Total	<u>658</u>	<u>656</u>

The Council have to announce with great regret the death of Miss E. Lamond, whose distinguished share in the recent edition of 'Walter de Henley' has been fully and deservedly appreciated both within and outside the Society.

The Council have also to allude to another serious loss which the literary work of the Society has sustained through the sudden and regrettable death of Dr. John Webster, of Aberdeen, whilst engaged upon an important paper from original MSS. which he had kindly undertaken at the request of the President.

As this Report is going to press the Council hear with the deepest regret of the death of Dr. Zerffi, for many years a member of the Council and for some time its Chairman.

The Fellows who died during the past Session were : Hon. G. Bancroft, P. Chalmers, Sir R. Fowler, Colonel E. C. Johnson, H. W. Jones, Miss E. Lamond, Miss S. Marshall, His Imperial Highness Dom Pedro, J. A. Rose, Dr. Schliemann, Sir T. Sowler, J. R. Sturgis, A. Travers, J. Webster, LL.D.

The Council append the Treasurer's Account of Receipts and Payments and the Capital Account.

CAPITAL ACCOUNT.

Oct. 31, 1890.	£	s.	d.	Oct. 31, 1891.	£	s.	d.
Balance	290	1	3	Balance	310	5	5
Two-thirds of One Life Composition	14	0	0				
Interest	6	4	2				
	<u>£310</u>	<u>5</u>	<u>5</u>		<u>£310</u>	<u>5</u>	<u>5</u>

We certify that the Bankers' Deposit Ledger was produced to us, showing £310. 5s. 5d. to the credit of the Royal Historical Society.

(Signed) R. HOVENDEN, }
 B. F. STEVENS, } *Auditors.*
January 27, 1892.

The Auditors appointed to examine the Society's Accounts report :

We have compared the entries in the books with the vouchers from November 1, 1890, to October 31, 1891, and find them correct, showing the receipts to have been £873. 15s. 6d., and the payments (including £14 transferred to the Capital Account) £678. 13s. 2d., leaving a balance on October 31, 1891, of £195. 2s. 4d. in favour of the Society.

(Signed) R. HOVENDEN, }
 B. F. STEVENS, } *Auditors.*
January 27, 1892.

Lastly, the Council append the Secretary's Financial Statement of the Assets and Liabilities of the Society on October 31, 1891.

FINANCIAL STATEMENT OF ASSETS AND LIABILITIES
ON OCTOBER 31, 1891.

Oct. 31, 1891.	£	s.	d.	Oct. 31, 1891.	£	s.	d.
Balance on Revenue				Refreshments at Meetings	22	11	6
Account	195	2	4	Spottiswoode & Co.	53	4	8
Outstanding Subscriptions:				F. Algar	3	10	0
Estimated recoverable .	105	0	0	Whitehead & Co.	2	6	6
Balance of Publishers' Ac-				Balance in favour of the			
count	10	1	3	Society	228	10	11
	<u>£310</u>	<u>3</u>	<u>7</u>		<u>£310</u>	<u>3</u>	<u>7</u>

January 1892.

P. EDWARD DOVE,
Secretary.

By Order of the Council.

(Signed) M. E. GRANT DUFF, *President.*
OSCAR BROWNING, *Chairman.*
P. EDWARD DOVE, *Secretary.*